

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**HONORABLE AVERN COHN**

**No. 16-20143**

**D-2 DEAUTA BELCHER and  
D-3 ANDRE WATSON,**

Defendants.

**JURY TRIAL - VOLUME 13**

**Monday, October 22, 2018**

Appearances:

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- - -  
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*Transcript produced using machine shorthand and CAT software.*

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**E X H I B I T S**

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Detroit, Michigan

Monday, October 22, 2018

9:01 a.m.

- - -

**THE CLERK:** Calling Case Number 16-20143,  
*United States v. Belcher and Watson.*

You may be seated.

**THE COURT:** As we go into oral argument, I am going  
to give the jurors, as I told you, a copy of the verdict form  
and read it to them. That's number one.

Number two, the government has one hour front and back,  
and each of the defendants has up to one hour. I have a  
personal problem and might have to call a recess on occasion  
that's out of order.

Anyhow, I don't expect interruptions in the oral argument  
unless they go to a very important point. If any of these  
interruptions get out of hand in my opinion, I am going to give  
the jury a very forceful reminder that lawyer argument is  
exactly that, lawyer argument, and that lawyer argument is not  
evidence.

I don't want to have to do that. I read it in the  
instructions. So I would encourage all of you to exercise  
caution on your objections and be careful with your rhetoric.

Now we will have to wait for the jury and wait for the  
electronic world to catch up with us.

*16-20143; U.S.A. v. Belcher/Watson*

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1           **MR. CRALLE:** Your Honor, can we have a moment to  
2 print -- is there an Elmo working? Because we could use that  
3 as an alternative.

4           **THE COURT:** What?

5           **MR. CRALLE:** Is the Elmo working? We could use that  
6 as an alternative. We could print a copy and then at least go  
7 through that without the electronic.

8           **THE COURT:** That's going to take -- okay. I'll give  
9 you ten minutes.

10          **MR. CRALLE:** Thank you, Your Honor.

11          (Recess from 9:19 a.m. until 9:31 a.m.)

12          **THE CLERK:** All rise for the jury.

13          (Jury in at 9:31 a.m.)

14          **THE COURT:** You may be seated.

15          Okay. We're going to start final argument. I'm going to  
16 give you a copy now of the verdict form you will be expected to  
17 fill out at the end of your deliberations. This will acquaint  
18 you with the questions you are going to have to answer. That's  
19 number one.

20          Number two, the lawyers in their final argument have the  
21 right to refer to the jury instructions I'm going to give you  
22 after the argument is over, but they can't say "The judge will  
23 instruct you." They can say "I believe the judge will instruct  
24 you" because the judge always reserves until the last possible  
25 moment a final decision on any.

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1 Now, as to the verdict form, you will see Count One as to  
2 Mr. Belcher:

3 "We, the jury, unanimously find the defendant,  
4 Deaunta Belcher, on the charge of use of interstate commerce  
5 facilities in the commission of murder-for-hire resulting in  
6 death."

7 You will check one, not guilty or guilty.

8 Defendant Andre Watson. "We, the jury, unanimously find  
9 the defendant, Andre Watson, on the charge of use of interstate  
10 commerce facilities in the commission of murder-for-hire  
11 resulting in death:"

12 Not guilty, guilty.

13 Count Two, Conspiracy to Distribute.

14 "We, the jury, unanimously find the defendant,  
15 Deaunta Belcher, on the charge of conspiracy to distribute  
16 controlled substances:"

17 Not guilty, guilty.

18 The same question applies to Andre Watson.

19 The third question: "We, the jury, unanimously find the  
20 defendant, Deaunta Belcher, on the charge of using and carrying  
21 a firearm during and in relation to a drug-trafficking crime on  
22 September 11, 2015:"

23 Not guilty, guilty.

24 Question 2. "Do you unanimously find that the use of a  
25 firearm in connection with the commission of this offense

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1 caused the death of Devin Wallace?

2 Yes, no.

3 Question 3. "Do you unanimously find that the killing of  
4 Devin Wallace with a firearm in connection with the commission  
5 of this offense constituted first-degree murder?"

6 Yes, no.

7 The same questions as to Andre Watson.

8 Then, finally, there is a fourth part.

9 Count Four, misleading communication. "We, the jury,  
10 unanimously find the defendant, Deaunta Belcher, on the charge  
11 of engaging in misleading conduct towards another person on  
12 September 24, 2015 with the intent to hinder investigation of a  
13 federal offense:"

14 Not guilty, guilty.

15 As I will tell you at the end, the answers to each  
16 question must be unanimous one way or the other. Thank you.

17 Mr. Cralle.

18 Show that to the defendants first, please.

19 **MR. HAUGABOOK:** They have seen it, Your Honor.

20 **MR. SHEA:** Yes, we have seen it, Your Honor.

21 **THE COURT:** Hand it up so I can take a look at it.

22 Okay. Thank you. Go ahead.

23 (9:36 a.m.)

24 **MR. HAUGABOOK:** Good morning.

25 **THE JURORS:** Good morning.

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1           **MR. HAUGABOOK:** Ladies and gentlemen, I want to thank  
2 you for the fulfillment of your civic duty as jurors over the  
3 last three weeks. It has often been said that the performance  
4 of jury service is one of the anchors upon which all of our  
5 liberties as United States citizens rest upon. So, on behalf  
6 of the Government's trial team, I'm sure my brother counsel and  
7 its trial team and this Honorable Court, we would like to  
8 thank you for serving as jurors. Our system of jurisprudence  
9 is one of the things that makes us an envy of the world  
10 because, whether you know it or not, there are still other  
11 countries that don't have this system of government that we do.  
12 So thank you.

13           Ladies and gentlemen, based upon the evidence, there is no  
14 question Devin Wallace died at the hands of Andre Watson and  
15 Deaunta Belcher. Three of the five participants have all told  
16 you of their collective involvement with Belcher and Watson in  
17 that murder. From this we know Watson, an enforcer on  
18 Belcher's payroll, along with Brown, killed Wallace in exchange  
19 for money and items promised by Belcher. Phones were used to  
20 coordinate it. Money, cars and a condo were promised. As a  
21 result, Wallace died after Watson shot at him twelve times at  
22 point-blank range, with six shots directed to Wallace's head.

23           Before you go back to deliberate I want to describe to you  
24 how the evidence you heard over the past three weeks satisfies  
25 the elements of the crimes charged beyond a reasonable doubt

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1 starting with Count One, Murder for Hire.

2 First, both Deaunta Belcher and Andre Watson are charged  
3 with use of a facility of interstate commerce in the commission  
4 of a murder for hire. That sounds complicated, but really it's  
5 not. There are four elements or four different things you must  
6 find beyond a reasonable doubt to find the defendants guilty of  
7 this offense.

8 First, that the defendants used or caused another person  
9 to use a facility of interstate commerce or foreign commerce.  
10 In this case that facility is a cellular phone. So you will  
11 simply need to decide whether Deaunta Belcher and Andre Watson  
12 used or caused someone else to use a cell phone in connection  
13 to this murder-for-hire scheme.

14 Second, that the cell phone, or phones, were used with the  
15 intent that a murder be committed.

16 Third, that this murder was done in exchange for something  
17 of value. In other words, it was committed for money, a car or  
18 something of value. Also, that money need not have changed  
19 hands actually. All that is required is a promise to pay  
20 someone in exchange for the murder; and

21 Four, that death resulted and that death satisfies the law  
22 of Michigan for first-degree murder.

23 During this trial over the past three weeks the evidence  
24 has shown that on September 11, 2015 at roughly 5 o'clock  
25 Devin Wallace sat outside They Say Restaurant in a white



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1 Mercedes Benz, a car that his widow and even Defendant Belcher  
2 said he did not frequently drive.

3 Wallace sat in his car talking to Darnell Bailey, his  
4 supposed good friend and business partner in a fraudulent car-  
5 and truck-trafficking scheme. Mr. Bailey is the cousin of  
6 Defendant Belcher, their other partner in the fraudulent car-  
7 and truck-trafficking scheme, who also engaged in drug dealing  
8 with Wallace and others.

9 The evidence has shown that their drug dealing was  
10 intertwined with their car fraud scheme because certain drug  
11 customers' identities were used as sham car buyers in  
12 conjunction with other drug customers who worked at the  
13 dealership, employees, to push the paperwork through, all  
14 for the purpose of faking the purchaser identities on cars  
15 that ultimately were subleased to other people in the  
16 drug-trafficking world or other drug dealers. The cycle of  
17 drug dealing and car fraud was completely entangled and  
18 repeatedly fed itself. In fact, they were two sides of the  
19 same coin.

20 The evidence has shown that an unsuspecting Wallace  
21 thought that he was going to meet with several other men,  
22 including Deaunta Belcher and Darnell Bailey, to discuss a  
23 business deal, but that meeting never happened because days and  
24 weeks before this date and at least before August 25th a  
25 nefarious plot to kill Wallace was hatched at a meeting at

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1 Zeidman's between Belcher, a/k/a Byrd; Bailey, a/k/a Gino;  
2 Brown, a/k/a Twin; and Watson, a/k/a Dre, Lil Stunna or Stunna.

3 From the evidence, we know that the plot to kill Watson  
4 was in effect by August 25th of 2015 because information from  
5 the call detail records or CDRs, as will be discussed in  
6 Exhibit 16.13 and 13.5, along with the testimony of Bailey and  
7 Brown about a failed attempt, tell us so.

8 Bailey said there was a failed attempt to kill Wallace at  
9 the Pantheon Nightclub in Dearborn. Brown said he and Watson  
10 went there based upon a call from Belcher and that they  
11 followed Wallace but could not keep up with him.

12 As seen in Exhibit 16.14, Belcher, Watson and Brown all  
13 talked on August 25th. As depicted in Exhibit 13.5, you can  
14 see that on August 25th, 2015 Wallace was in the vicinity of  
15 the Pantheon Club around the same time as Brown and Watson.  
16 Wallace's number ended in 5618, Brown's ended in 1332, Watson's  
17 ended in 3909. In other words, everyone's phone is in the same  
18 area. Everyone was in the same area.

19 On the fateful day of September 11, 2015 the evidence has  
20 shown that Wallace, as we are going to see in Exhibit 2, pulled  
21 up outside the restaurant at 16:34:05. Recall that the clock  
22 on this video was a minute and 45 seconds fast. In other  
23 words, based upon the time in the video, he really pulled up at  
24 16:32. So, ladies and gentlemen, as you saw in the video, you  
25 have to subtract a minute and 45 seconds to get the true time.

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1           As we are about to see in Exhibit 13.7, by the time the  
2 victim pulled up and parked, Chambers, Brown and Watson are  
3 already on the way to his location in Chambers' 2007 black  
4 Charger. Looking at Exhibit 13.7 and the testimony of  
5 Chambers, Brown and Agent Jenson, between 4:25 and 5:10 p.m.  
6 Chambers is en route southbound from Faircrest Street with  
7 Brown, his front seat passenger, and Watson, his rear seat  
8 passenger, in response to Belcher's follow-up call to Brown  
9 about a definite location, that being the They Say Restaurant  
10 location, to find, as Brown testified, the big fish on the  
11 line.

12           By 16:51:30, as depicted in Exhibit 13.7, Watson, Brown  
13 and Chambers have reached the area of They Say Restaurant. As  
14 you can see in Exhibit 13.8, Watson's and Brown's phones are in  
15 the immediate area before, during and after the murder. Recall  
16 that Chambers and Brown both told you they were in the car as  
17 driver and front seat passenger respectively and that  
18 Andre Watson was the rear seat passenger, who exited the car  
19 and killed Wallace.

20           As we are about to see in Exhibit 16.5, within that same  
21 block of time Brown and Belcher are in contact with one another  
22 numerous times. There is even contact with Belcher from  
23 Watson's phone, which aligns with Brown's testimony that due to  
24 a battery issue he borrowed that phone from Watson and used it  
25 to call Belcher. Remember, Brown says those calls were related

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1 to execution of the plan hatched at Zeidman's to kill Wallace,  
2 and, and, and by his refusal to tell the Detroit Police the  
3 truth about all he talked about, about all he talked to before  
4 and after the murder.

5 I'm sorry, let me start over. To tell DPD the truth about  
6 who all he talked to before and after the murder, Defendant  
7 Belcher by that glaring omission and untruth tells you himself  
8 that it was indeed Brown he was talking with when he was  
9 talking with him about killing Wallace.

10 You saw that video interview with the Detroit Police  
11 Homicide Detectives Mitchell and Lucy where they confronted  
12 Belcher regarding the number belonging to Stephen Brown and the  
13 number of contacts between Belcher and Brown's phone. In the  
14 interview the detectives told Belcher his phone had contact  
15 with Brown's phone 188 times the month before September 11,  
16 2015 and at least 23 times on the day of the murder.

17 In the interview Belcher refused to say the 1332 number  
18 was Brown's or Steph's, as he called him; refused to say he  
19 associated with Steph or that he ever talks to Steph, for that  
20 matter, even though he talked to Brown as he pulled up to the  
21 They Say Restaurant on September 11th, which I'll talk about  
22 more in a moment. In the interview Belcher said the last he  
23 heard of Steph was in jail and refused to admit he even knew  
24 his last name. But, as you saw from the video, Detective  
25 Mitchell found Brown's full name and picture in the Facebook

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1 contact from Belcher's phone, one of the second phones he  
2 possessed in that interview.

3 But, suffice it to say, Defendant Belcher, by those  
4 glaring omissions and untruths, tells you himself that it was  
5 indeed Brown that he was talking to. Defendant Belcher, by all  
6 of those glaring omissions and untruths, tells you himself that  
7 the calls between he and Brown involved a plan to kill Wallace.

8 Also, recall before the murder he had told his then fiance  
9 and drug coconspirator Miss Latasia Banks that Bailey asked him  
10 to help take out Wallace, and when confronted by Banks after  
11 the murder, he confessed and in his own words said, "Nigga was  
12 greedy and had to go."

13 As we are about to see in Exhibit 4, by the 16:48:04 mark  
14 in conjunction with Exhibit 16.7, you can see that as Belcher's  
15 Camaro arrives he has just been in contact with Bailey's phone,  
16 he had just been in contact with Bailey's phone, and he is in  
17 contact with Brown's phone twice, a 10-second and a 95-second  
18 call. These are outbound calls, meaning Belcher is calling  
19 Brown, calling Brown's phone.

20 The 95-second call starts at 16:48:24 of Exhibit 16.7 and  
21 Exhibit 4. That means, ladies and gentlemen, that that  
22 95-second call runs until 16:49:59, and as you can see from the  
23 video, Mr. Belcher is still in the car. He never exited the  
24 Camaro until he completed that call with Mr. Brown. Therefore,  
25 before he even gets out of the car with his daughter he is on

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1 the phone engaged in fulfilling the plan to execute Wallace.

2 Next, we will look at another clip from Exhibit 4, which  
3 ends at the 16:53:03 mark, and compare it with Exhibit 16.7.  
4 From this clip you can see that Belcher is back into his  
5 Camaro, and a second later at 16:53:04 when we look at  
6 Exhibit 16.7 he gets a call from Andre Watson's phone, another  
7 call he refused to acknowledge to Detectives Mitchell and Lucy.

8 Looking at Exhibit 13.7, you can see that at 16:51:31, by  
9 that little box down there closest to -- it looks like it's  
10 sitting in the water there, you can see that at that time when  
11 we look at Exhibit -- when we look at that, you can see that he  
12 gets a call from Andre Watson's phone number and you can see  
13 that Watson's phone is indeed in the immediate area of the  
14 restaurant. In fact, it is already in the area before making a  
15 46-second call to Belcher's phone.

16 Brown and Chambers told you that on the -- Brown and  
17 Chambers told you that on the ride to They Say Brown and Watson  
18 shared each other's cell phones to talk to Belcher. In fact,  
19 Brown told you that due to a battery issue he used Watson's  
20 phone to call Belcher. Remember, Brown told you that they were  
21 sitting on the corner of Joseph Campau and Jefferson for a few  
22 minutes and there was a phone call with Belcher.

23 Looking at another clip from Exhibit 4, which starts at  
24 the 16:53:04 mark, you can see, when we look at Exhibit 16.7,  
25 you can see that that call that starts at 16:53:04, which lasts

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1 46 seconds, is enough and just long enough for Belcher to  
2 arrive a block away onto eastbound Wight Street. Brown  
3 testified Belcher was told they were nearby, and Brown told you  
4 they saw Belcher pull off in that Camaro. As we just saw,  
5 Watson's phone was there at 16:51:03, about two minutes before  
6 the call and two minutes before the defendant pulled off, and  
7 as Brown told you, they could see him pull off in the white  
8 Camaro.

9 The evidence proves that by the time he got home a block  
10 away to attempt to drop his daughter off, Belcher already made  
11 the phone calls to carry out the plan hatched at Zeidman's to  
12 kill Wallace. Given the testimony Belcher was paying for this  
13 and held a bitter animosity with Wallace, this all explains why  
14 Belcher was definitely in a rush to get in and out of the  
15 house, like Ms. Banks said.

16 Belcher wanted to get in and out of the house because, in  
17 his words, he had a play on the floor with Darnell Bailey, and  
18 that play, ladies and gentlemen, was to kill Wallace. I submit  
19 that Belcher wanted to get back so he could watch the aftermath  
20 of Wallace's execution and commence the false narrative that  
21 Wallace was killed for snitching.

22 His daughter's return to the scene with him was by sheer  
23 happenstance and accident. In fact, her presence in the car  
24 with Belcher did not even stop his phone call and planning with  
25 Brown when Belcher first pulled up and parked outside the

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1 They Say Restaurant before the murder.

2 Looking at another clip from Exhibit 4, which starts at  
3 the 17:03:42 mark, which we will later compare with this  
4 Exhibit 16.7. You can see that after the shooting occurs  
5 Bailey is at Belcher's car a block away on Wight Street at  
6 17:04:23.

7 Looking at another clip from Exhibit 4, which starts at  
8 the 17:04:24 mark, which we will compare to Exhibit 16.7. You  
9 can see Belcher then headed westbound on Wight and circled the  
10 block before arriving back at the restaurant scene.

11 Belcher's Camaro arrives and parks on southbound  
12 Joseph Campau at the corner of Franklin at 17:06:02. By the  
13 time this clip ends at 17:06:06, in that short window that it  
14 takes for him to leave Wight and circle the block and get  
15 there, you can see that he doesn't get out the car until after  
16 he has had a 36-second call with Andre Watson on the phone. If  
17 you do the math, 17:05:30 plus 36 seconds will take you to  
18 17:06:06, which is just before he gets out of the vehicle right  
19 there. As you can see, Belcher was on the phone with Watson  
20 before he got out of the car after returning to the scene, and  
21 yet that's another communication he denied making to detectives  
22 Lucy and Mitchell.

23 You know that payment was promised to Brown and Watson  
24 because Brown told you so. Chambers testified that while in  
25 jail Brown said he received some money but was due more. Brown



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1 also testified about this conversation and said he promised to  
2 give Chambers a cut of the money he was to receive from  
3 Belcher.

4 You also heard that Brown called Belcher for payment and  
5 was directed to Bailey, who promised to pay him at Motor City  
6 Casino, but Brown could not go because he was on tether and he  
7 sent Watson instead.

8 Bailey told this account as well. You also heard that  
9 Brown called Bailey, who said he gave \$10,000 to Belcher to pay  
10 them. Brown then contacted Belcher, who said he gave it to  
11 Watson, yet Brown did not get a cut of the money.

12 You heard that in one instance Brown sought money from  
13 Belcher, but Belcher mocked him and questioned whether he  
14 deserved any because he failed to shoot directly with his .40  
15 caliber gun.

16 You also heard that Brown was getting the runaround  
17 regarding full payment from Belcher. In fact, Brown and  
18 Chambers told you about Brown's hunt for him in the  
19 Warren-Conner projects. Chambers and Brown both told you they  
20 found him and that Brown was paid.

21 Brown said he even went there with an AK-47 or chopper  
22 because he was so incensed that he was getting the runaround  
23 and the money was not being paid off as promised. You heard  
24 Brown say as a result he received some money from Belcher the  
25 evening of that encounter in the projects. You also heard, it

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1 was brought out on cross-examination of Agent Rienarth, that  
2 Brown told Rienarth he was offered a house and car by Belcher  
3 for killing Wallace.

4 Ladies and gentlemen, the Government has overwhelmingly  
5 proven the elements of Count One, murder for hire, involving  
6 Defendants Belcher and Watson. Both Belcher's and Watson's  
7 involvement with the others in this killing has been  
8 established by the testimony of the witnesses and the evidence,  
9 and I believe the Court will instruct you on what evidence is.  
10 It's the testimony of witnesses and the exhibits admitted into  
11 evidence and any stipulations and anything else that the Court  
12 tells you you may consider as evidence.

13 However, there is even more evidence of Watson's guilt  
14 because of his lies to Agent Rienarth. You recall Agent  
15 Rienarth, who not only testified about the creation of  
16 Exhibit 16, but he also testified about his interview of  
17 Watson. Agent Rienarth said that Watson admitted the 3909  
18 phone number was his. A phone with that number was seized by  
19 Detroit Police during a traffic stop and arrest of Watson's  
20 female companion, as testified to by Officer Penn.

21 However, just like Belcher, Watson's untruths proves his  
22 guilt and involvement also. Watson told Rienarth he did not  
23 even know anyone named Chambers, but as we see in Exhibit 24C,  
24 he had three contacts for B.J. Chambers saved in his phone,  
25 including Chambers' number ending in 1987. Likewise, in

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1 Exhibit 17B, Chambers had Watson's 3909 phone number saved in  
2 his phone under the name Stunna. Watson said he did not know  
3 or associate with Steph, even though there was a video on his  
4 phone of him and Steph Brown that was made a couple weeks  
5 before their arrests.

6 Watson denied going downtown or near They Say even though  
7 his phone shows him in the area at about the 16:51:03 mark  
8 until the murder was concluded. While in the area, Watson's  
9 phone was in contact with Belcher's or Byrd's phone and  
10 remained there throughout the murder. Watson denied knowing  
11 Byrd, but as we see in Exhibit 24D, Brown had several entries  
12 in his phone for a Byrd and described him as a tall, skinny  
13 light-skinned man. As you heard from Agent Riennerth, those  
14 numbers there were other numbers found for Belcher in his  
15 drug-trafficking activity.

16 The lies of Defendants Belcher and Watson in the face of  
17 the independent cell phone evidence, such as cell site location  
18 and actual cell phone content, coupled with the testimony of  
19 Chambers, Brown, Jackson, Bailey, and Ms. Banks, proves these  
20 defendants' guilt as to Count One.

21 There's no question these defendants used a phone, an  
22 instrument of interstate commerce, with the intention to commit  
23 a murder.

24 There's no question that they did so based upon a promise  
25 to pay. Brown even mentioned he was promised money, a car and

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1 a condo. This is consistent with Belcher's capability to pay  
2 because Ms. Banks told you about Belcher's involvement with a  
3 drug customer realtor and Belcher's exchange of a car for a  
4 condo or house. Also, you know that Belcher was involved in a  
5 car fraud scheme so it stands to reason that Belcher could  
6 indeed promise such things.

7 There is no question these defendants caused the death of  
8 Wallace. They intended to kill him, when you can take into  
9 account the Zeidman's plan, the surveillances, the failed  
10 attempt on August 25th, and finally the 12 shots fired at  
11 point-blank range on September 11th.

12 There's no question that this was a premeditated killing.  
13 You take into account the Zeidman's plan, the surveillance, the  
14 August 25th attempt, the two calls to Brown about big fish on  
15 the line with a promise to call back with a definite location,  
16 and in fact a call back with a definite location at They Say,  
17 and the calls with the Brown and Watson phones as Defendant  
18 Belcher was arriving to the restaurant location, again calls  
19 which he denied making and lied about who the other person was  
20 on the line when he was interviewed by Detroit Police.

21 The evidence has shown that the execution of this  
22 nefarious plan on Mr. Wallace by all participants, including  
23 Chambers as the driver, and these two defendants, Belcher and  
24 Watson, on September 11 was just plain heinous and cold  
25 blooded.

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1       As we see from Exhibit 6CC and Exhibit 11, Watson shot at  
2 Wallace twelve times, and six of the nine shots struck Wallace  
3 in his head. Nine took effect to his body, four of which  
4 exited his head, while the remaining two were removed during an  
5 autopsy.

6       There's no question the killing of Wallace was deliberate.  
7 The Defendant Belcher had the opportunity to weigh the pros and  
8 cons as he pulled up on Franklin Street in the first instance.  
9 Watson had the same opportunity as he took that long ride from  
10 Faircrest down to They Say, as he sat at the corner of  
11 Joseph Campau and Jefferson, even as he sat at the corner of  
12 Franklin and Chene watching the events ahead of him. They each  
13 had the opportunity to reflect upon it, weigh the pros and  
14 cons.

15       Moving on to Count Two, Conspiracy to Distribute  
16 Controlled Substances. There's overwhelming evidence about  
17 Belcher's drug dealing, from the jail call where he sent  
18 Ms. Blanks to pick up drug money and deliver drugs, the  
19 testimony of Ms. Banks, the testimony of Frank Aday, the  
20 drug-related text messages and notations in Belcher's phone,  
21 the testimony of Brown that Belcher supplied him with  
22 marijuana, the testimony of Bailey regarding Belcher's drug  
23 dealings with Wallace and others, and the testimony of Jackson  
24 regarding admissions told him by Bailey, which were admitted to  
25 you, Mr. Jackson testified for you, to show that Mr. Bailey was

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1 being consistent about everything he told you later here in  
2 court because before he even had a deal or anything like that  
3 he had a catharsis. He started explaining himself to  
4 Mr. Jackson.

5 And there's no question about the inseparable role the  
6 drug dealing played in the fraudulent car scheme.

7 There's no question Belcher conspired with others to  
8 distribute and did distribute drugs such as marijuana, cocaine  
9 and oxycodone.

10 There's no question that the drug conspiracy fed into the  
11 car scheme and vice versa.

12 There's no question Belcher knowingly and voluntarily  
13 joined the conspiracy with all of his drug coconspirators.

14 With regard to Mr. Watson in Count Two, the elements are  
15 there was a conspiracy or agreement among two or more people to  
16 commit an illegal act, to wit, sell drugs and the defendant  
17 knew of or joined the conspiracy.

18 There's no question that Belcher's car fraud/drug  
19 conspiracy existed or that two or more persons conspired or  
20 agreed to join it. So did Watson. You heard testimony that  
21 Watson was an enforcer for Belcher. That was his role in  
22 connection to the drug conspiracy.

23 You heard testimony that Watson was at Zeidman's where  
24 Belcher offered him and Brown compensation to kill Wallace.  
25 Recall that this was a scheme prompted in part by Belcher's

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1 drug trafficking.

2 Afterwards, Watson did surveillance with Brown for the  
3 express purpose of finding and killing Wallace.

4 From the testimony of Chambers, Brown and Bailey, who says  
5 Belcher told him Watson was the killer.

6 Watson was there on September 11th with his phone and did  
7 the killing.

8 Given that Belcher denied calls with Brown's or Watson's  
9 phones and Watson denied knowing this Byrd when interviewed by  
10 Agent Rienerth and Watson had no explanations for why his phone  
11 was in connection with Belcher's or this Byrd's phone on  
12 September 11th, coupled with Watson's denial of being in the  
13 area of They Say when his phone does put him there by at least  
14 16:51:30, all of this shows Watson's consciousness of guilt.  
15 It shows Watson's attempts to hide his connection to Belcher  
16 and his whole involvement in this murder scheme.

17 One does not solely have to join the car fraud/drug  
18 conspiracy as a dealer or customer. Also, this Court may give  
19 you an instruction that to join a conspiracy does not require  
20 proof that Watson knew everything about the conspiracy or  
21 everyone involved. Also, I believe this Court may instruct you  
22 that once a conspiracy is shown an individual's slight role or  
23 connection is enough to find him guilty. Ladies and gentlemen,  
24 that is satisfied by Watson's role as the enforcer for Belcher.

25 Moving on to Count Three, Use of a Firearm. The third

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1 charge is use of a firearm during and in relation to a  
2 drug-trafficking crime. This count dovetails with the drug  
3 conspiracy I just finished talking with you about.

4 With regard to Count Three, causing death through the use  
5 of a firearm during and in relation to a drug-trafficking  
6 crime, to be clear, ladies and gentlemen, although Belcher did  
7 not use a gun, the law does not require him to personally use  
8 the gun for him to be guilty of this offense.

9 I believe this Judge may instruct you that a person can be  
10 guilty of this charge as an aider and abettor or as a  
11 coconspirator. Here, although Watson used a gun and committed  
12 the murder, he was aiding and abetting Belcher, who offered to  
13 pay him and Brown to commit the murder. You even heard from  
14 Brown that before this proffer was made he didn't know Wallace,  
15 he had no reason to go and find Wallace, he had no reason to  
16 kill Wallace.

17 There's no question Belcher committed the drug-trafficking  
18 crime that was interwoven with this car fraud scheme. In fact,  
19 Belcher and Bailey lured Wallace there to participate in the  
20 car fraud and drug-trafficking scheme. There's no question  
21 Belcher and Bailey wanted Wallace dead because of disputes that  
22 arose during and in relation to that car fraud and  
23 drug-trafficking scheme.

24 There's no question, based upon the testimony, cell site  
25 analysis and physical exhibits, that Chambers, Brown and Watson



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1 were all there. Even surveillance video puts Bailey and  
2 Belcher there.

3 There were two guns, a .40 caliber and a 9mm, and the  
4 testimony was that Watson used the 9mm which killed Wallace.

5 You heard from MSP Officer Molnar, and he told you twelve  
6 of those casings were 9mm, eleven of them came from the same  
7 gun. He talked about one just being kind of unavailable to say  
8 it was or wasn't, and I submit to you when you looked at the  
9 video you saw at least seven or eight vehicles that rolled  
10 through there or what have you. I submit that's what made that  
11 inability to read that last shell. But he also told you that  
12 there was a .40 caliber casing there as well.

13 There's no question a gun or guns would be used because  
14 the killing had to be quick and fast. There's no question  
15 Watson did the killing based upon Belcher's admission to Bailey  
16 and the testimony of Brown and Chambers as supported by the  
17 cell site analysis and the spent bullets and gun casings.

18 There's no question that an unsuspecting Devin Wallace  
19 lost his life due to twelve of the 9mm bullets being fired at  
20 him and six hitting him in the head all at point-blank range.

21 For aiding and abetting I believe that this judge will  
22 tell you in the instructions that any assistance is enough.  
23 Belcher's assistance to Wallace was the Zeidman's offer of  
24 payment to commit the murder, the passing along of information  
25 to Watson through the phone call with Brown, the location as

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1 well as who was standing outside the car and who was seated  
2 inside.

3 As that surveillance video proves, in the split second  
4 that he exited the car Mr. Watson already knew to avoid Bailey  
5 and go straight to the occupant of the car. Think about it.  
6 Mrs. Wallace said her husband rarely drove that car, and in his  
7 video interview Belcher recounted only three times of seeing  
8 Mr. Wallace inside that car. Brown said he and Watson got  
9 their information about what cars Wallace drove from Belcher.  
10 Brown even talked about seeing Mr. Wallace in a Jeep, in a  
11 white Jeep.

12 It took Belcher and his calls to the Brown/Watson phones  
13 on September 11 to tell them Wallace was inside that Benz.  
14 Even in their failed attempt at surveillance Brown told you and  
15 testified that he merely saw Wallace in a white Jeep. Watson  
16 assisted Belcher by performing the execution of Wallace with  
17 the firearm based upon the information Belcher passed to Brown  
18 as relayed to Watson that Wallace was the occupant of the car  
19 and Bailey was standing outside.

20 For Count Three there is another way in which both  
21 defendants are liable, and that is under the rule of law that  
22 the acts committed by one coconspirator is attributable to all  
23 of the members of the conspiracy. These defendants conspired  
24 at Zeidman's to commit a murder. As I mentioned before, it  
25 obviously had to involve a gun or guns to be quick and fast.

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1 Both of these defendants joined the conspiracy at the Zeidman's  
2 meeting and remained in it until the killing of Wallace was  
3 achieved. The deliberate killing of Wallace was done to  
4 continue the car fraud drug scheme without Wallace's  
5 participation and interference in the money earned from the  
6 scheme. The killing of Wallace, ladies and gentlemen, was  
7 obviously committed during and in relation to the car  
8 fraud\drug-trafficking scheme.

9 Count Four, Obstruction. The fourth and final charge  
10 relates to Deaunta Belcher only. He is charged with making  
11 misleading statements to police to hinder the investigation.  
12 The evidence is that Belcher knowingly tried to mislead police  
13 in September 2015 when he told them: One, he didn't know  
14 Stephen Brown personally; that he did not have Stephen Brown's  
15 phone number, two; and three, that he thought Stephen Brown was  
16 still in jail.

17 With regard to Count Four, Obstruction of Justice,  
18 Defendant Belcher, by being untruthful about calls to his phone  
19 before and after the murder, claiming he didn't know  
20 Stephen Brown, claiming Stephen Brown was still in jail,  
21 claiming the 1332 number belonged to Block, claiming he didn't  
22 associate with Stephen Brown, claiming he didn't know  
23 Stephen Brown's last name, these false statements obstructed  
24 justice. Deaunta Belcher should have known these false  
25 statements would be passed along to DEA because he planted the

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1 cover story moments after the murder, and you heard what that  
2 story was, that Wallace was killed for snitching in a federal  
3 investigation. In fact, I submit he thought his false  
4 statement would send the investigation in a different  
5 direction, away from him, his cousins Bailey and Brown, and  
6 Watson to other drug dealers already under investigation by the  
7 DEA.

8 Ladies and gentlemen, over these last three weeks the  
9 Government has provided you with overwhelming evidence  
10 consisting of exhibits and testimony to prove the defendants'  
11 guilt for each crime charged beyond any doubt, certainly beyond  
12 a reasonable doubt. As a result, we ask you to return the only  
13 verdict which this evidence supports, and that's that the  
14 defendants are guilty on each and every count as charged.

15 I thank you for your time and attention.

16 **THE COURT:** Mr. Shea.

17 **MR. SHEA:** Yes. Thank you, Judge.

18 Good morning, ladies and gentlemen. I want to start by  
19 addressing the less-serious counts because I'm not going to  
20 spend a lot of time on them. I'm going to start in fact with  
21 Count Four, which is the count that charges Mr. Belcher with  
22 obstruction of justice.

23 One of the elements that -- well, first, I mean, obviously  
24 one element is that the person charged did something to mislead  
25 or try to deceive law enforcement, and you heard the audio

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1 clips of Mr. Belcher's statements to the police on September  
2 the 24th. This count relates to his interview with DPD on  
3 September the 24th, and I don't think you are going to have too  
4 hard a time concluding that he didn't tell the truth all the  
5 time in that interview, particularly when it came to his  
6 relationship with Mr. Brown.

7       However, another critical element of that count is that he  
8 must tell those untruths with the intent to hinder, delay or  
9 prevent the communication of that information to a federal law  
10 enforcement officer. I don't think there's any evidence  
11 whatsoever to suggest that when he was talking to Detectives  
12 Mitchell and Lucy on September the 24th at the Detroit Police  
13 Department that he had the specific intent to somehow --  
14 whatever it is he was saying was going to get communicated to a  
15 federal law enforcement officer. So I think that, absent that  
16 element, you can't convict him of that count.

17       With respect to Count Two, the drug conspiracy, and as I  
18 said to you in opening statement, there's been a lot of  
19 evidence that's been presented to the effect that Mr. Belcher  
20 was a drug dealer and that in connection with his drug dealing  
21 he engaged with various people who in one form or another  
22 assisted him in connection with that. That would include  
23 Frankie Aday. That would include Steph Brown. That would even  
24 include Latasia Banks, according to the evidence. And, of  
25 course, you heard Mr. Belcher admit that he was a drug dealer

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1 to police on September the 24th. So the fact that he was a  
2 drug dealer is not in dispute.

3 As I also said to you in opening statement, that doesn't  
4 make him a murderer, and he's -- Count Two just charges him  
5 with the drug conspiracy. Count Three charges him with the  
6 murder of Devin Wallace as an outgrowth of the drug conspiracy.  
7 And merely because you may believe that the Government is  
8 satisfied with its proofs with respect to Count Two doesn't  
9 mean the Government has satisfied its proofs with respect to  
10 Count Three, and that's what's of critical importance to  
11 Mr. Belcher today. Nor does the fact that Mr. Belcher was a  
12 drug dealer conclusively prove that Andre Watson was in that  
13 conspiracy.

14 The fact that Mr. Belcher may have associated with  
15 Frankie Aday and Nancy Eaton, Latasia Banks and Steph Brown  
16 doesn't mean he's associated with Andre Watson in connection  
17 with those drug-dealing activities. I'll let Mr. Johnson  
18 address that more fully because I think that more centrally  
19 goes to his client's concerns, but I wanted to point that out.

20 It should be obvious to everybody in this courtroom that  
21 the main reason why this trial has taken place is over, at  
22 least from Mr. Belcher's point of view, is over whether or not  
23 Mr. Belcher was involved in the death of Devin Wallace. So I'm  
24 going to turn to that, and I'm going to spend the rest of my  
25 time on that issue, that broad overarching issue.

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1           And I want to start by saying -- this may help you  
2 understand my argument, the structure of it as I go through,  
3 and it may help me as I try to keep it structured as I go  
4 through. There are three broad reasons why I will be arguing  
5 to you at the conclusion of this summation why I believe you  
6 need to acquit Mr. Belcher of the murder charges.

7           First, the Government's case relies primarily on you  
8 believing beyond a reasonable doubt a collection of very  
9 untrustworthy people, who are habitually untrustworthy, who  
10 have lived practically their entire adult lives as being  
11 untrustworthy.

12           Second -- and I am talking about again primarily  
13 Billy Joe Chambers, Darnell Bailey and Steph Brown. We'll talk  
14 about Latasia Banks and Sean Jackson in a little bit, but the  
15 three primary witnesses whom the Government relies on are  
16 Chambers, Bailey and Brown.

17           Second, not only did Chambers, Bailey and Brown  
18 demonstrate through their lifestyle that they are untrustworthy  
19 people, they have undeniable and clear motive to lie about  
20 Mr. Belcher in this case.

21           And, third, the evidence that the Government points to  
22 that it would argue corroborates these untrustworthy people's  
23 version of events does not necessarily corroborate those  
24 untrustworthy people's version of events.

25           So, with that sort of structure, let's dive into it in a

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1 little more detail. Let's start with what we know for sure  
2 because even the untrustworthy people admit it.

3 We know that Chambers, Brown and Bailey were involved in  
4 the murder of Devin Wallace. Bailey tried like heck to say he  
5 wasn't really, and we'll talk about that in a minute as well,  
6 but we know, I mean these people have pled guilty to murder for  
7 hire. It's not a whodunit when it comes to them. The issue is  
8 can the Government prove beyond a reasonable doubt to you that  
9 Deaunta Belcher was part of their conspiracy.

10 I believe the judge will instruct you, I believe the judge  
11 will instruct you that proof beyond a reasonable doubt is proof  
12 that is so convincing that you would not hesitate to rely on it  
13 in making the most important decisions in your own lives, and I  
14 submit to you that the testimonies of Chambers, Bailey and  
15 Brown aren't that kind of proof, don't carry that kind of  
16 convincing weight.

17 We know that Stephen Brown previously had been convicted  
18 multiple times of felonies involving theft and stolen property.  
19 We know that he was on parole at the time of the murder. We  
20 know that he's 29 years old. For virtually all of his 20s he  
21 was locked up.

22 We know that Billy Joe Chambers had multiple convictions  
23 involving stolen property and robbery. We know he was on  
24 parole at the time of the murder.

25 We know that Darnell Bailey had multiple convictions,



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1 three I believe, two for unemployment insurance fraud, one for  
2 receiving and concealing a stolen automobile. He was on  
3 two separate probations at the time of the murder, and we know  
4 that he was engaging in various ongoing frauds, notwithstanding  
5 his convictions, up to and through the time of the murder. We  
6 know that Darnell Bailey was so incorrigible in connection with  
7 his frauds and deceptions that he sought to educate others,  
8 like Sean Jackson, while he was locked up on how to commit  
9 frauds and deceptions.

10 We know that he even had his family send a deceptive  
11 letter to Judge Marlinga in the Macomb County Circuit Court  
12 seeking early discharge from probation, telling the Court that  
13 he was at present locked up on charges of murder but that he  
14 wasn't a murderer. This was in October of 2017, a few months  
15 before he pled guilty to being a murderer.

16 I don't think I'm saying it too strongly when I say that  
17 Misters Brown, Chambers and Bailey are habitual liars and  
18 cheats. Then they come to this case. During the investigation  
19 of this case they remained true to form.

20 Billy Joe Chambers had three separate police interviews.  
21 He lied until -- about his own involvement until the very end  
22 of the third interview.

23 Mr. Bailey spoke to police twice on September the 11th,  
24 wasn't forthright with them; spoke to them on September 17th,  
25 wasn't forthright with them; spoke to them on March the 8th,

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1 wasn't forthright with them. Always played off that he didn't  
2 know anything about it, that he suspected that Wallace was  
3 killed by others because he was snitching.

4 Mr. Brown, likewise, in the first interview he gave with  
5 the federal agents on March 9, 2015 acknowledged lying  
6 throughout that.

7 When they ultimately confessed their involvement, when  
8 eventually they put themselves in the crime, they didn't do it  
9 out of some sense of moral obligation or ethical obligation.  
10 Mr. Chambers told us that he confessed because law enforcement  
11 showed him the evidence and he didn't want to go away for life.

12 Mr. Bailey confessed after reviewing the indictment and  
13 after having been told by police repeatedly on March 8th, 2016  
14 that he needed to do damage control, and they were offering him  
15 a way out through cooperation from a life sentence.

16 Stephen Brown acknowledged to us that he had been locked  
17 up for most of his 20s, as I have previously mentioned, and he  
18 wanted an opportunity to get out some day, and the Government  
19 gave him that opportunity through cooperation.

20 None of these people ultimately came to Jesus with respect  
21 to their involvement in these cases because they had all of a  
22 sudden an epiphany about doing the right thing. They all came  
23 to the table because they wanted something pretty important to  
24 them in return, and the fact they didn't have a plea agreement  
25 yet doesn't change that elemental fact. These people came to

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1 the table because they wanted something important in return.

2 Their lack of candor continued through their testimony at  
3 trial. Let's start with Mr. Chambers. No fewer than six times  
4 he refused to answer my questions. I didn't count how many  
5 times he refused to answer Mr. Johnson's questions.

6 At least twice he acknowledged testifying at trial  
7 differently than he had testified before the grand jury. At  
8 least once he acknowledged testifying at trial to you  
9 differently than he had told law enforcement just three weeks  
10 earlier.

11 In connection with that last one, you will remember him  
12 testifying about bleaching the car and you will remember him  
13 testifying to you that Steph Brown didn't help him bleach the  
14 car, and then he acknowledged having told law enforcement  
15 three weeks earlier for the first time that he had bleached the  
16 car and that Steph Brown had helped him.

17 The point is this. Ultimately Mr. Chambers agreed with me  
18 that he didn't always tell facts the same way, and isn't that  
19 sort of the essence of somebody who is untruthful and  
20 unreliable and how can you believe him in connection with the  
21 most important decisions of your life?

22 It also tends to put the lie -- Mr. Chambers had these --  
23 it's been a long time, but I think you probably can remember  
24 back. Mr. Chambers had a way of speaking that was kind of  
25 repetitive, and one of the things that he kept repeating was "I

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1    lied then, but I'm telling the whole truth now because my  
2    cooperation agreement requires me to be truthful and honest  
3    with the jury and with everybody in the courtroom." Can you  
4    remember him saying that any number of times?

5           Well, when on cross-examination he has to acknowledge he  
6    didn't tell the facts the same way twice even to you, it kind  
7    of undercuts that sentiment. And, furthermore, how would you  
8    know with somebody like that when they really mean it? Okay,  
9    I'm telling you the truth now, I really mean it.

10           Let's move on to Mr. Bailey and his testimony here. He  
11    constantly tried to weasel out of responsibility for  
12    everything, it seemed, that he's done in his life that was  
13    wrong. Early on Mr. Cralle tried to get Mr. Bailey to explain  
14    one of his convictions, it was the receiving and concealing a  
15    stolen automobile conviction, and you will remember Mr. Bailey  
16    saying, well, yeah, I pled guilty to it, but it was really a  
17    technical violation. I learned afterwards that when a car gets  
18    repossessed it's not really mine anymore, it's theirs, and so  
19    technically I was in possession of a stolen vehicle and that's  
20    why I pled guilty to it.

21           He told you that until he got involved with the Government  
22    he didn't consider straw buying to be fraud. He told you that  
23    when he educated Sean Jackson as to how to commit frauds when  
24    they were together in pretrial detention it was because he  
25    wasn't used to the federal system and didn't realize that he

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1 shouldn't have opened up to Mr. Jackson in that sense, in that  
2 respect. He blamed Mr. Jackson for essentially getting the  
3 information out of him.

4 He told you that he didn't know that the letter that his  
5 family sent on his behalf to the judge would say what it said.  
6 He told you he didn't know that Mr. Wallace was going to be  
7 killed on September the 11th.

8 And his last words to me on cross-examination were: "I  
9 don't feel like I should do any time except for the frauds, to  
10 be honest with you," and this is from a guy who earlier this  
11 year or late last year, I forget what day it was, but you could  
12 check it out, on his Rule 11 Plea Agreement pled guilty to  
13 Murder for Hire. This is a man who not only doesn't have a  
14 moral compass, he doesn't seem to have the capacity to be truly  
15 forthright even when he's on the witness stand under oath and  
16 talking to you.

17 Mr. Brown is another person who can't seem to tell --  
18 can't seem to tell a story the same way twice. I'll give you  
19 some examples.

20 To you he testified that he received \$500 directly from  
21 Deaunta Belcher in partial payment for the murder. To agents  
22 he said he never received anything from Deaunta Belcher.

23 To you he said I didn't have any telephone conversations  
24 with Darnell Bailey before the murder. To agents he said he  
25 did have telephone conversations with Darnell Bailey before the

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1 murder.

2 To you he said he didn't have any discussions with  
3 Darnell Bailey after the Zeidman's meeting about getting the  
4 murder done. To agents he did have those discussions.

5 He couldn't keep his story straight even between day one,  
6 when he testified on direct examination, and day two, when he  
7 testified on cross-examination. Again, some examples:

8 The Government asked him about whether he had gotten a  
9 telephone call from Mr. Belcher about trying to locate  
10 Mr. Wallace on Grand River near a mechanic shop, and Mr. Brown  
11 said I got a telephone call from Mr. Belcher about that and  
12 this occurred between August 26th and -- August 25th and August  
13 the 31st.

14 On cross-examination the next time we were in court --  
15 maybe it wasn't the next day, I don't remember if there was a  
16 weekend in between because the dates blend together, but I  
17 think it was the very next day -- his story had changed. He  
18 still says he got the telephone call from Mr. Belcher but that  
19 it occurred sometime between August the 11th and August the  
20 25th.

21 There is a second example, and then I'm going to tell you  
22 why these are important. On day one in direct exam after the  
23 discussion of whether Mr. Brown was asked to try to locate  
24 Wallace near Grand River and the mechanic shop, after that the  
25 next line of questioning had to do with did you receive

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1 frequent calls from Mr. Belcher after that, between the end of  
2 August and September the 11th, and Mr. Brown described it yes,  
3 he had. On cross-examination the next day he, again, changed  
4 his mind and, again, he said, well, those calls actually  
5 started -- I got frequent calls between August the 11th and  
6 September the 11th, an entire month.

7       Why am I harping on this? Why is this important? It's  
8 important because, if you accepted Mr. Brown's testimony on  
9 direct day one, you would know they were lies because if you  
10 look at the call detail records there were no telephone calls  
11 from Mr. Belcher to Stephen Brown from August the 26th until  
12 September the 9th. He could not have been calling Mr. Brown to  
13 try to find Wallace on Grand River between the 25th and the  
14 31st. He could not have been calling Brown frequently between  
15 the end of the month and September the 11th because they  
16 weren't having conversations or at least Mr. Belcher was not  
17 calling Mr. Brown.

18       There are times when people aren't telling the truth  
19 because they are simply mistaken. People make mistakes. Then,  
20 there are times when people aren't telling the truth because  
21 they don't want to be forthright. Mr. Brown's -- I'm just  
22 giving you some examples. Mr. Brown's discrepancies, his  
23 change of testimony from one day to the next, his change in  
24 recollections from one interview to the next or from  
25 one interview to his testimony today, they are too numerous,

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1 they are too regular to simply be mistakes.

2 Mr. Brown's demeanor with the Government was completely  
3 different than his demeanor with me. I could have challenged  
4 him on whether the sun rose in the east, and he would have said  
5 it didn't or he never testified that it did.

6 He clearly wanted to feed the Government the information  
7 that the Government wanted fed and he wanted to fight with  
8 everybody else, and he caught himself up in numerous  
9 discrepancies as a result of that and that's a sign of someone  
10 who doesn't have candor, who is not honest, who is deceptive,  
11 not just someone who is mistaken.

12 In addition to these cooperators being liars by nature and  
13 liars by habit, it can't be denied that they have a strong  
14 motive to lie about Mr. Belcher in this case. They knew that  
15 the only way they were going to have an opportunity to walk the  
16 streets again was to cooperate.

17 As we heard Sergeant Eby say to Darnell Bailey, they had  
18 to tell on people. That was the only way they could do damage  
19 control. Implicating Mr. Belcher was not hard to do even if it  
20 wasn't the truth.

21 Mr. Chambers was shown four photos and asked to describe  
22 the roles of each them. Well, he knew that Mr. Belcher wasn't  
23 in his car. He knew that Mr. Belcher wasn't at the window of  
24 the victim's car. He knew that Mr. Belcher was a boss of  
25 Stephen Brown in the drug business. He knew that Mr. Belcher



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1 and Mr. Bailey were associated. It's not hard to say, well,  
2 jeez, if I'm being shown the photograph he must have a role,  
3 his role must be as some guy who gives instructions or is a  
4 director of some kind or is behind the scenes in some fashion.  
5 It's not hard to make that up.

6 With respect to Stephen Brown, by the time he was  
7 cooperating he had the indictment and the indictment laid it  
8 out. This is the original indictment, which is in evidence as  
9 Defendant's Exhibit G1, and if back in the jury room you look  
10 at Defendant's Exhibit G1 and you go to Page 3 that describes  
11 the manner and means of the conspiracy, you will see language  
12 that says the Government alleges Deaunta Belcher agreed to pay  
13 Stephen Brown a sum of U.S. Currency to murder Devin Wallace  
14 because of his cooperation with the DEA. You will see the next  
15 paragraph says that Deaunta Belcher and Darnell Bailey arranged  
16 to meet with Devin Wallace on the afternoon of -- at They Say  
17 Restaurant, and it will continue on, regarding that being the  
18 way that Wallace was killed. Brown has the indictment by the  
19 time he's cooperating. He knows what the Government's theory  
20 is.

21 With respect to Mr. Bailey, he also had the indictment by  
22 the time he was cooperating, but in addition to that, he had  
23 Sergeant Eby telling him in their interview in March of 2015  
24 what everybody's roles were, and Sergeant Eby said to him, hey,  
25 we know Belcher was the mastermind, you've got to tell on him.

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1 It's not hard for any of these three men to know how to frame  
2 Deaunta Belcher within the Government's theory.

3 And Bailey was more than happy to adopt that theory  
4 because if you look at the evidence it looks kind of compelling  
5 that he actually was the one who organized this whole thing.  
6 He acknowledged on cross-examination that he had plenty of  
7 motive. Wallace had cheated him out of tens of thousands of  
8 dollars over the previous two or three years, and he detailed  
9 it.

10 Brown told us that the Zeidman's meeting was initially  
11 arranged between him and Belcher by phone so that he could get  
12 a resupply of marijuana to sell. He told agents that when he  
13 was on that call with Belcher setting up that meeting he heard  
14 another voice over the phone screaming about how the victim had  
15 to be killed because he was messing with that guy's money. At  
16 the Zeidman's meeting he met Bailey and he recognized the voice  
17 as having been Bailey's.

18 So the first contact, if Brown's statement to the agents  
19 is to be believed, that he knew that somebody wanted the victim  
20 dead was through Bailey telling him that, not Belcher telling  
21 him that.

22 Brown also told agents that he and Bailey communicated by  
23 phone before the murder about it and that Brown used a  
24 different number than the one we became familiar with through  
25 the call detail records, which is why you wouldn't see those

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1 calls in the call detail records.

2 The evidence is that Bailey paid money that filtered its  
3 way to Brown through the Motor City Casino meeting. That,  
4 Brown testified, was set up by a phone call that he and Bailey  
5 had, which confirms that he and Bailey were capable of  
6 communicating by telephone directly.

7 Bailey also told us that he was associated with a number  
8 of other people who were beefing with Wallace and at least  
9 one of whom who had actually said that he wanted Wallace dead,  
10 and that these other people knew that Bailey was associated  
11 with the victim, Bailey was close to the victim, and presumably  
12 could help facilitate state that.

13 We know, just talking about September 11th, we know that  
14 the victim was in a hurry. We know that he kept his engine  
15 running. We know that he didn't want to come into the  
16 restaurant. We know that Bailey engaged him in conversation  
17 for 20 minutes outside on the side of the road. You can watch  
18 the full 20 minutes at some point, if you'd like. We know that  
19 Bailey knew he was in a white Benz. We know that, we have  
20 evidence that suggests that Bailey and Brown had the ability to  
21 communicate directly with each other. Bailey actually told us  
22 that he knew that Wallace was going to be driving the white  
23 Benz before Wallace even arrived at the They Say meeting, and  
24 finally, Sean Jackson testified that when Bailey was talking to  
25 him about the murder when they were locked up together Bailey

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1 omitted any mention of Bailey's beefs with Wallace. Obviously  
2 he didn't want to talk about that, he wanted to deflect  
3 attention elsewhere, and yet Jackson was insightful enough  
4 about Bailey to tell the grand jury that Bailey had a motive to  
5 deflect blame onto Belcher so that Bailey wasn't blamed on the  
6 street for Wallace's murder. There's a fair amount of evidence  
7 here that points to Bailey as the real mastermind in this  
8 conspiracy and not Mr. Belcher.

9 The Government claims that Chambers' and Bailey's and  
10 Brown's stories about Mr. Belcher's role in this are  
11 corroborated by other evidence, but that isn't necessarily so.  
12 There's a series of things.

13 Let's start with the suggestion that Mr. Belcher had  
14 motive. The only person who has told you that Mr. Belcher had  
15 a motive to kill Wallace is Mr. Bailey.

16 And what did Mr. Bailey say first about that? In his very  
17 first interview after he signed his proffer agreement in  
18 November of 2017 he said that Mr. Wallace and Mr. Belcher had a  
19 grudge because Mr. Belcher stiffed Mr. Wallace on a drug deal.

20 He didn't say anything about anything else. He didn't say  
21 Belcher was mad at him because of fraud. He didn't say Belcher  
22 was mad at him because of any other drug-related reason. But,  
23 by the time we got to trial, Bailey's story had morphed into  
24 Belcher was mad at Wallace for the same reasons that all of us  
25 were, because Wallace kept messing with our money, and also

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1 because Wallace had sold Belcher some bad heroin.

2 Well, if that were true, why didn't Bailey say that to the  
3 agents in the same interview that he signed his proffer  
4 agreement where he agreed he was going to tell the truth and he  
5 was going to volunteer all information reasonably related and  
6 not omit things. Why didn't he tell it then?

7 The reason Mr. Bailey's story had to change over time is  
8 because it doesn't make sense for Mr. Belcher to be mad at  
9 Mr. Wallace over the fact that Mr. Belcher stiffed him on a  
10 drug debt. That's not, you know -- if I were Mr. Wallace and I  
11 had been stiffed on a drug debt, I might have wanted  
12 Mr. Belcher dead, but it doesn't work the other way around.  
13 It's doesn't make sense. So that's why Mr. Bailey's story  
14 changed, and that's why it's not reliable.

15 The Government points to the fact that Mr. Belcher lied to  
16 police about knowing Brown, about knowing Watson, about Brown's  
17 1332 number belonging to another worker of his by the name of  
18 Block or Blockhead. Mr. Belcher did lie about those things.  
19 That doesn't make him a murderer. That doesn't corroborate  
20 Bailey's and Brown's and Chambers' story about Belcher being  
21 involved in this murder.

22 Detective Mitchell acknowledged that people lie to him all  
23 the time in police interviews whether they are guilty or not.  
24 He acknowledged that a drug dealer might lie about the identity  
25 of persons who work for him, particularly if that drug dealer

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1 is under charges himself, which Mr. Belcher was. That a drug  
2 dealer might lie about people who work for him if they have  
3 their own troubles with the law, which we know Stephen Brown  
4 did. He was on parole. He was not supposed to be selling  
5 drugs at all, but particularly not when you're on parole. So  
6 there's any number of reasons why Mr. Belcher may have lied to  
7 police, but they are unrelated to whether or not he was  
8 involved in a murder.

9 The Government points to the Pantheon episode supposedly  
10 occurring on August the 25th. First, I don't know how  
11 Steph Brown could have remembered from the witness stand last  
12 week that he knew specifically that episode happened on August  
13 the 25th, 2015. He couldn't even tell me how far it was or how  
14 long it would take to get from Faircrest Street to the Family  
15 Dollar or to get from the Family Dollar to his house,  
16 notwithstanding the fact that he was familiar with all of those  
17 places, but he remembers specifically August the 25th, that was  
18 the date of the Pantheon episode. I don't think his memory is  
19 that good. He was rehearsed.

20 More to the point, on cross-examination he acknowledged  
21 that the Pantheon episode happened at night. It didn't happen  
22 in the afternoon. He wouldn't have gotten any calls from  
23 anybody about where Wallace was at The Pantheon Club after  
24 8 o'clock at night. He said that.

25 So all of the calls that the Government is pointing to in

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1 that Exhibit 16, I think, that showed a bunch of back and forth  
2 between 4:00 and 5:00 or 3:30 and 4:30 or whatever it was are  
3 not related to the Pantheon episode, and they are testament to  
4 the fact that these people talk to each other all the time  
5 anyway about other stuff. I mean, the Government wants you to  
6 think that they were just fixated, all five of them, on  
7 Devin Wallace all of the time. That's not true. They have  
8 other lives. They were doing other things, a lot of them were  
9 illegal, but they had any number of reasons why they would be  
10 talking to each other.

11 They point to Zeidman's as the place where the plot was  
12 hatched, except that we know from Mr. Brown's testimony, and he  
13 had no reason to lie about this, that the reason he was going  
14 to Zeidman's in the first place was to get resupplied with  
15 marijuana by Mr. Belcher. That doesn't mean that he had a  
16 discussion with Mr. Belcher at that meeting about killing  
17 Wallace, although certainly could have had that discussion with  
18 Mr. Bailey at that meeting because he was present.

19 They point to Latasia Banks, Mr. Belcher's former  
20 girl friend, mother of his children, as corroboration of his  
21 involvement because of her testimony that he confessed to her a  
22 month afterwards. First, I'm not sure that the words "nigga  
23 too greedy, he had to go" is a confession as opposed to an  
24 observation. Mr. Belcher may have known why Wallace was  
25 killed. That doesn't mean he was involved in it.

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1 But even if you accept it as her testimony, that he  
2 confessed to her, you shouldn't believe it. This is more  
3 bought-and-paid-for testimony. It is testimony that was given  
4 in return for leniency in her own very recently brought case,  
5 and it's inconsistent with two other significant pieces of  
6 evidence.

7 I invite you back in the jury room to listen to jail call  
8 Government Exhibit 18A. That's the call that we heard between  
9 Mr. Belcher and her where the call begins with some just  
10 general hi, how are you doing sort of things, and then we're  
11 going to talk more about that beginning. It segues. It was  
12 important to the Government because it demonstrated Mr. Belcher  
13 instructing Ms. Banks about who owed money for drugs. So  
14 that's why it was played.

15 But, if you go back and you listen to the early portion,  
16 you hear Mr. Belcher ask what happened, and you hear Ms. Banks  
17 say that on the news the night before they had described him as  
18 the one who had put the hit out and then you hear her say, she  
19 thought to herself, "yeah, right." And then you hear  
20 Mr. Belcher say, "That shit's crazy, I had nothing to do with  
21 that shit." And Latasia responds, "Keep your head up, babe.  
22 Stay strong."

23 This is not the kind of conversation that two people have  
24 if they previously had a conversation where Mr. Belcher has  
25 confessed to Latasia Banks, "Hey, I had something to do with



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1 this." Go back and listen to that conversation.

2 The second significant piece of evidence that belies her  
3 claims that Mr. Belcher confessed to her is the fact that last  
4 April she talked to my investigator Desiree Edwards, who asked  
5 her whether she had any information that indicated that  
6 Mr. Belcher was involved, and she said no. At that time she  
7 didn't have any reason to lie to Desiree Edwards. She didn't  
8 have any reason to mislead me, but she had plenty of reason to  
9 lie to the Government.

10 Let me point out one other thing as an aside. She  
11 testified under oath that she was only involved in  
12 Mr. Belcher's drug business after his arrest, but we know from  
13 Frankie Aday's testimony that's not true. Frankie Aday  
14 testified that early on when he and Nancy were getting drugs  
15 from Deaunta they were also getting them from Latasia, and they  
16 were getting them dropped off at Nancy's house where Frankie  
17 lived and the reason they were getting dropped off there is  
18 because it was close to where Latasia worked and Latasia  
19 sometimes made the deliveries. And so she lied to you about  
20 that, too. She's not believable.

21 Let's talk about the call detail records and particularly  
22 the call detail records on September 11th. The Government  
23 suggests that these records, combined with the video,  
24 corroborate the fact -- corroborate Stephen Brown's testimony  
25 that Belcher was giving them directions.

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1 I suggest that you can't just look at the dates and times  
2 of the records themselves and the video. You have to pay  
3 attention to the testimony that Brown gave in connection with  
4 them.

5 And just to introduce this part, remember that there are  
6 exhibits, Defense Exhibits K1 and K2, for instance, that show  
7 that he and Brown had very regular, very extensive contact for  
8 weeks and weeks leading up to September the 11th. So it  
9 certainly wasn't unusual for them to have a lot of discussions.

10 We even heard Agent Riennerth testify that on some days  
11 they talked just as often, just as many times on those other  
12 days as they did on September the 11th. So it's not like it  
13 sticks out like a sore thumb and that it never happened before.

14 There's nothing intrinsically suspicious about calls  
15 between, even a lot of calls, between Belcher and Brown. What  
16 makes them suspicious to the Government is the timing of them.  
17 I've got to give them that, the timing is something that if  
18 you're the Government you're going to be suspicious about it,  
19 but also what Mr. Brown says about those calls. And so that  
20 means you've got to believe Mr. Brown, what he says about those  
21 calls.

22 Again, what Stephen Brown actually says about those calls  
23 depends on the day on which he was testifying. On day one he  
24 testified that he got all kinds of telephone calls from  
25 Mr. Belcher starting with the "big fish" call all the way while

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1 they were traveling to They Say from Theodore Street and until  
2 they arrived there, all of these telephone calls from  
3 Mr. Belcher he testified to having occurred on direct  
4 examination. The problem with his testimony is that, again,  
5 there aren't that many telephone calls from Mr. Belcher to  
6 Mr. Brown on that day. There's only two. There's three if you  
7 count one that goes to voice mail, but in terms of  
8 voice-to-voice contact, there was two.

9 So on day two, of course, Mr. Brown's testimony has  
10 changed. These aren't all telephone calls from Mr. Belcher to  
11 him. They are telephone calls that Mr. Brown has placed to  
12 Mr. Belcher, which is a little closer to the truth. He does  
13 place some telephone calls to Mr. Belcher on that day in that  
14 period of time. Not nearly as many as he says and ultimately  
15 not at the times he says that he placed them.

16 So, for instance, he says that he sees the white Camaro  
17 that Mr. Belcher was driving, driving away from him on  
18 Joseph Campau. We have all seen that on the video. He makes  
19 the left-hand turn off Franklin on Joseph Campau, makes another  
20 left-hand turn, we hear from Officer Mitchell, that he parked  
21 in front of his residence for a few minutes.

22 Brown testified that after he saw Belcher pull away that  
23 he called Belcher from his phone a number of times and he  
24 called Belcher one time on Watson's cell phone after he sees  
25 Belcher drive away. This can't be true. It isn't true.

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1           The video tells us that Belcher pulled off at 4:51 p.m.  
2   if you correct the video time by subtracting a minute and  
3   45 seconds. The video tells us that Chambers' car drives that  
4   same route down Joseph Campau passing Franklin Street where the  
5   Benz is parked and Gino is standing next to the window at  
6   4:55 p.m., four minutes after Belcher is already gone.

7           After that, of course, after 4:55, Chambers' car does the  
8   big loop to get back to Franklin Street to pull up and ambush  
9   Wallace from behind. There are no calls, no calls, zero calls  
10   to or from Belcher and Brown or Belcher and Watson in that  
11   period of time.

12           Brown says that when they were stopped behind the school  
13   bus very shortly before pulling up on Wallace that's when he  
14   used Watson's phone to call Belcher. Again, there are no  
15   records that confirm that. As a matter of fact, they confirm  
16   the opposite. There were no calls then.

17           So it doesn't make sense for the explanation for these  
18   clear inaccuracies to be they are just innocent inaccuracies.  
19   Mr. Brown met with the Government prior to taking the stand.  
20   He went over his reports. He went over his anticipated  
21   testimony. There's only one explanation for why Mr. Brown  
22   can't tell the story correctly, and that's that he can't keep  
23   his lies straight. He's not believable.

24           It is not Mr. Belcher's burden to prove to you what might  
25   explain events differently than how the Government wants you to

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1 believe them, but let's think about some things. One thing  
2 that everybody seems to agree with is there was supposed to be  
3 a meeting at They Say late that afternoon, and Mr. Bailey said  
4 there were two reasons for it: One was to sell a car and  
5 one was to meet with some other people about some other general  
6 business-related accounts, some Juan guy and somebody else.

7 It's not disputed that Mr. Bailey arrived first, that  
8 Mr. Wallace arrived second, somewhere around 4:30 or 4:35, that  
9 Mr. Belcher somewhere around 4:45. There's no dispute that  
10 Mr. Belcher and his daughter exited the Camaro, walked up to  
11 the door of They Say, you see some conversation between him and  
12 Mr. Bailey, and Mr. Belcher turns around and walks back.  
13 Mr. Bailey tells us that he told Mr. Belcher there's nobody  
14 here.

15 Mr. Belcher goes back to his car, gets in the car,  
16 and after a few minutes drives away at 4:51. Per  
17 Detective Mitchell, who reviewed video that we don't have,  
18 but who reviewed the River Place Apartment video, Mr. Belcher  
19 arrived home around 4:52.

20 According to the call detail records, Detective Mitchell  
21 confirmed Mr. Bailey placed a call to his girl friend at 4:54.  
22 We know from the call detail records he got a call from  
23 Mr. Bailey at 4:57 that lasted 80 seconds. During that period  
24 of time, if you do the math, Mr. Bailey would have had to have  
25 been at the window of Mr. Wallace's car during that

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1 conversation. You can actually see, if you look at the video  
2 around that time, Mr. Bailey going into his pocket and pulling  
3 something out.

4 According to Detective Mitchell, at 4:59, after the  
5 80-second contact with Mr. Bailey, Mr. Belcher leaves the car,  
6 goes in the apartment complex where his residence is for a  
7 couple minutes, comes back out, it's 5:01, gets back in the  
8 car, immediately turns around and heads back to the scene.

9 Belcher could not have known that Wallace had been killed  
10 by then. He hadn't had any communication with anybody to have  
11 let him know that. The more reasonable explanation is he was  
12 going back to the scene as an outgrowth of that 80-second call  
13 he had gotten from Bailey at 4:57. That's the more reasonable  
14 explanation.

15 Bailey says we didn't actually have a call. I dialed him,  
16 and then I thought better of it and I just forgot to hang up  
17 and it was 80 seconds of dead air. There's a problem with  
18 that, ladies and gentlemen. It's a very serious problem. It's  
19 Mr. Belcher's records that show the 80-second call.

20 If I call one of you and I'm not talking and it sounds  
21 like a butt dial, are you going to wait for a minute and-a-half  
22 before hanging up? No, you are going to hang up. After  
23 realizing, okay, this isn't a real call, you are going to hang  
24 up. It's not going to show up as an 80-second call on the  
25 recipient's records. It may show up as an 80-second call if

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1 it's a butt dial on the dialer's, but the fact that the  
2 recipient's records show an 80-second connection indicates that  
3 Mr. Belcher was doing something on that connection and what he  
4 was doing was talking to Mr. Bailey and probably Mr. Wallace.  
5 It's another example of how Mr. Bailey is a liar.

6 Why is Gino lying about that? Is it because he placed  
7 that 80-second call to Mr. Belcher at 4:57 p.m. in order to  
8 hold Mr. Wallace at the scene a little bit longer? Is he doing  
9 that because he knew that the shooters were getting close or  
10 were imminently arriving, as they did just a couple minutes  
11 later, and did he know that because he had the capacity to have  
12 direct communications with Stephen Brown that don't show up in  
13 the call detail records because Stephen was using a different  
14 phone? Why else would Mr. Bailey lie about not actually having  
15 what clearly was an 80-second contact with Mr. Belcher at  
16 4:57 p.m.?

17 This doesn't change the fact that Mr. Belcher had contacts  
18 with Mr. Brown that afternoon, and he had a couple with  
19 Mr. Watson as well. But, again, in order for you to construe  
20 those contacts as being related to the murder of Devin Wallace,  
21 you've got to believe Stephen Brown beyond a reasonable doubt,  
22 and I don't think that Stephen Brown's testimony carries that  
23 weight.

24 I'm almost done here.

25 Let's remember a couple other things. This murder

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1 occurred a block and-a-half from where Mr. Belcher lived at  
2 5:00 p.m. on a Friday afternoon, broad daylight. Who does  
3 that? I mean, if you really want to kill somebody are you  
4 going to do it a block and-a-half from your house at 5:00 in  
5 the afternoon? Are you going to go back to the scene, and  
6 innocent or not, you are going to take your daughter with you?

7 He told Gino to call 9-1-1. He stayed and he spoke with  
8 the police. Those are not actions that are consistent with  
9 somebody who is involved in a murder.

10 I'm going to conclude.

11 The foundation for the Government's murder case against  
12 Mr. Belcher is built on sand. Every relevant law  
13 enforcement -- I'm sorry, non-law enforcement witness in this  
14 case is singing for their supper, is telling you something that  
15 they want you to believe so the Government gives them something  
16 in the end that is very significant, their liberty. They get  
17 to go home. Maybe not right away, but a hell of a lot sooner  
18 than they would otherwise. That is a powerful, powerful  
19 motivator, and they are seeking to bury Mr. Belcher so they can  
20 go free.

21 The judge may instruct you on how to consider such  
22 evidence, and I ask you to take that instruction really to  
23 heart. These are people who have lived their lives as liars,  
24 cheats and thieves, as I have said more than once, and the  
25 other evidence in this case, the videos, the call records make



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1 sense to the murder case only if you believe these liars,  
2 cheats and thieves beyond a reasonable doubt, only if you would  
3 rely on their word in making the most important decisions in  
4 your own life. I don't think their word is worth that kind of  
5 reliance, and so I'm asking you to find Mr. Belcher not guilty  
6 of the homicide counts. Those are Counts One and Three.  
7 Thank you.

8 **THE COURT:** We'll take a short recess, ladies and  
9 gentlemen.

10 **MR. JOHNSON:** Judge, may we approach after the --

11 **THE CLERK:** All rise for the jury.

12 (Jury out at 11:04 a.m.)

13 **THE COURT:** Yes, Mr. Johnson.

14 **MR. JOHNSON:** Yes, Judge, I wanted to approach.

15 **THE COURT:** Pardon?

16 **MR. JOHNSON:** I wanted to approach on an evidentiary  
17 issue.

18 **THE COURT:** Go ahead.

19 **MR. JOHNSON:** I believe that Mr. Haugabook argued to  
20 the jury that my client made a statement, he talked about the  
21 substance of that statement, and he based an argument on that  
22 statement. That statement never came in. There was no  
23 testimony to that statement. That statement was not admitted,  
24 no, and -- unless I overlooked it.

25 **MR. CRALLE:** You did. The statement came in.

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1 Special Agent Rienerth testified on Monday about his interview  
2 with your client. He did not introduce the oral statement. He  
3 testified to the substance. Every single bit of that came in.  
4 We can pull the transcript.

5 I asked the questions. That was the testimony. That was  
6 Monday.

7 **MR. JOHNSON:** I don't recall that, Judge.

8 **MR. CRALLE:** Well, I recall it distinctly, last  
9 Monday.

10 **THE COURT:** The jury will recall the testimony. You  
11 can argue that he didn't make the statement, but it's up to the  
12 jury to decide whether he made it or not.

13 I'm not going to correct anything Mr. Haugabook said. You  
14 can argue that Mr. Haugabook said Mr. Watson made a statement.  
15 "My recollection, ladies and gentlemen of the jury, is he did  
16 not make a statement. It's for you to decide." I mean, you  
17 will deal with that in your argument, and you will deal with it  
18 in your argument.

19 **MR. CRALLE:** Yes, Your Honor.

20 **THE COURT:** Thank you. I'll be back.

21 **MR. SHEA:** How long, Judge?

22 **THE COURT:** I will tell you, the Marshals govern the  
23 time of the recess, okay? You have control of it.

24 **MARSHAL:** You've got it. All right.

25 **THE COURT:** I may not like what you do, but you still

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1 have it.

2 **MARSHAL:** Will do.

3 **THE COURT:** Unless you want to use the public  
4 restroom.

5 (Recess from 11:07 a.m. to 11:37 a.m.)

6 **THE COURT:** Okay. Everybody be seated, please.  
7 Bring in the jury.

8 **THE CLERK:** All rise for the jury.

9 (Jury in at 11:38 a.m.)

10 **THE COURT:** Be seated.

11 Mr. Johnson.

12 (11:39 a.m.)

13 **MR. JOHNSON:** Good morning, ladies and gentlemen.

14 Thank you for serving. Thank you for your attentiveness.  
15 If there's been any exchanges between me and the judge or the  
16 Government lawyers that you find offensive, I apologize, and I  
17 ask you not to hold that against my client. I have the utmost  
18 respect for counsel at this table as well as the Court.

19 If you recall when we first met, I told you that I was  
20 going to make a promise to you, and that promise was to try to  
21 dig into this case and deliver you facts and information that  
22 you wouldn't normally get through the Government and I asked  
23 you in return to be attentive and to be objective and I thought  
24 that if we worked together it would help you reach a verdict, a  
25 verdict that was fair based on objective and impartial,

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1 unbiased consideration. Even though I didn't have the burden,  
2 I told you I was going to take on that burden.

3 I think from watching you, from being here with you, that  
4 you have been attentive. This has been a very difficult task  
5 because of the nature of the evidence, and when I say "nature  
6 of the evidence," I mean, as brother counsel pointed out, the  
7 lies, the inconsistencies, the sort of witnesses that we're  
8 dealing with here.

9 So I want to further assist you in ferreting out this  
10 evidence, and in doing that, I'm not going to go over a lot of  
11 things that brother counsel has gone over. He's done a fine  
12 job pointing out those things, but what I want to do -- and I  
13 told you when we first met, I told you I thought you had a very  
14 difficult task, and that difficult task, it seems to be  
15 extremely difficult in this case because of the nature of the  
16 evidence, and the nature of the evidence are lies and  
17 inconsistencies based on testimony coming from liars, cheats,  
18 murderers, thieves, professional impersonators, and that's very  
19 difficult.

20 And the instructions the judge may give you will talk  
21 about the nature of the evidence, but what I want to do is I  
22 want to get into the nuts and bolts of the instructions because  
23 that's where you are going to have to go. And I'm not going to  
24 go through all of the testimony of these liars. I'm going to  
25 take out that testimony that I think you can pigeon-hole into

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1 these instructions so that when you get back in the back you  
2 will understand these instructions and how to apply the --  
3 adjudicate the facts, the facts that this case turns on. So  
4 I've got a little bit more work to do with you so just bear  
5 with me.

6 I'm going to talk about some of the instructions that the  
7 Court may give that I think are very important for you to  
8 consider and that I want you to consider strongly in my case,  
9 and that is -- and I'm going to try to move as quickly as I can  
10 because I'm on a time schedule here.

11 There may be an instruction that talks about proof beyond  
12 a reasonable doubt, and what I want you to know is that the big  
13 thing that I'm relying on in this, in this instruction is that  
14 you have to look at the possible doubts and doubts based purely  
15 on speculation are not reasonable doubts. So you've got to  
16 look at that testimony real close.

17 I'm real big in this case on the lack of evidence, and the  
18 lack of evidence I think is so important in this case because a  
19 lack of evidence you can attach a reasonable doubt to. So  
20 you've got to look at the evidence, and if there's a lack of  
21 evidence in respect to where is the gun, a lack of evidence  
22 into a number of factors, you can attach reasonable doubt.

23 You have to look at all the evidence. If it has more than  
24 one reasonable explanation, and I'm going to give you some  
25 examples, if there's more than one reasonable explanation,

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1 there may be a reasonable doubt. If there's two or  
2 three reasonable explanations, there may be a reasonable doubt,  
3 and that's why I think the lack of evidence is so important.

4 It's also important when you talking about circumstantial  
5 evidence, you know, and that circumstantial evidence gets into  
6 the links in the chain, you know, does the links connect. The  
7 Government has a theory. I want you to look at that theory. I  
8 want you to look at if there's -- follow that theory. Follow  
9 my theory. My theory is going to talk about the evolution of  
10 the lie, where the lie started, where the lie ends. There can  
11 be more than one reasonable explanation to this case, to their  
12 theory, and if I give you one, then we may -- you can say  
13 there's a reasonable doubt. So that's very important.

14 The nature of the evidence. You clearly have to look at  
15 the fact that this evidence comes in through liars, cheaters,  
16 con artists. You've got to look at that because that's the  
17 nature of this case. So credibility is going to be very  
18 important on your part, looking at whether the evidence is  
19 credible.

20 Judge the testimony of the snitches, okay? They are the  
21 government witnesses, but I need you to, as the instructions  
22 will tell you, use your common sense. I just need you to use  
23 your common sense, common sense when you're talking about what  
24 Watson did when he was standing next to someone while an  
25 agreement was being made, were there words spoken, were there

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1 acts, were there gestures. Remember, I told you in the  
2 beginning that you have to connect -- if you commit a crime,  
3 you have to connect the actus reus with the mens rea. You  
4 can't have a crime unless you connect the mental state with  
5 some sort of act.

6 So if you're looking at what Watson may have said, did he  
7 say anything? I'm big on that. I'm talking about were there  
8 words spoken, not what somebody else said, and is there  
9 corroborating facts, okay?

10 So that instruction, I think, is very important, and when  
11 you're talking about reasonable doubt, it will explain to you  
12 what it means, and I always like to say, and recall I said,  
13 demand the quality of evidence that you would want your loved  
14 one to be, if they were on trial, and I think that's big.

15 In this case the Government had the burden of proof.  
16 There's been hours of interrogation with Brown, Bailey,  
17 Paymond, the interrogating detectives. There were audio  
18 recordings of statements by my client. They didn't produce  
19 that. The Government didn't produce that so you won't see  
20 that. You won't see all of the evidence in this case so I have  
21 to ferret through what you do have, but you can look at -- I'm  
22 here to try to get to the truth. Sometimes the Government  
23 doesn't give you all the evidence, okay? And you can look at  
24 that, but the only thing you can judge is the evidence before  
25 you.

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1 I want to go to another instruction that talks about the  
2 circumstances, and I talked to you about that, the chains in  
3 the link -- the links in the chains, I'm sorry.

4 Now, another instruction is very important here, and  
5 that's the state of mind, the intent, okay? That's very  
6 important because they want you to believe that -- they want  
7 you to read Watson's mind in this case when Watson is with  
8 Brown, when Watson is in the car, when Watson is at Zeidman's.  
9 Watson doesn't say anything. There's nothing to say that  
10 Watson said anything so they want you to read their minds.  
11 Well, this instruction talks about that. No one can read  
12 another person's mind and tell what that person is thinking,  
13 but a defendant's state of mind can be proven indirectly from  
14 the surrounding circumstances. So when you're looking at the  
15 Zeidman's and you're looking at him being in the car with  
16 Brown, you've got to look at are there any other corroborating  
17 facts besides what Brown says was in Watson's mind?

18 Let's take, for instance, the Zeidman's meeting. Remember  
19 the evolution of a lie? And I'm going to get to that, but the  
20 lie evolves to a point where we get to a meeting at Zeidman's.  
21 And the facts that you've got to remember and look at closely,  
22 I believe, is Brown and Bailey infer, they try to infer that  
23 Watson was present. We don't know, but they say Watson was  
24 present, and Brown was offered a car, a condo and money.

25 The conclusion was that, of Bailey and Brown at some point



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1 was Watson stood there so Watson heard and agreed. The  
2 inference was he stood there and Watson heard and agreed, but  
3 there's no way to infer what was in Watson's mind from his just  
4 being present at an alleged meeting. We don't have Watson's  
5 words, acts or gestures to weigh what was in his mind. Nothing  
6 independent to show he agreed or acknowledged and agreed. No  
7 actus reus, no mens rea, no act that we can infer his mental  
8 state.

9 Mental state. Words of intent are very important, and  
10 when you look through this case, for instance, Brown, when you  
11 look at Brown, there's evidence. You can look. Brown says the  
12 only thing that's on the mind is to kill Devin Wallace and get  
13 a car and get a condo. That's corroboration. That gives you  
14 an opportunity to weigh what's in Brown's mind. You see -- and  
15 that's very important. That's instruction 13 when you start  
16 talking about intent.

17 Brown testified he and Watson rode together. Well, what  
18 happened then? What did they talk about? Does he ever talk  
19 about what they talked about? Nobody really testifies to what  
20 Watson ever really said in this case. Nobody. There's no  
21 words or acts that anybody can assert that Watson made. No one  
22 has given us Watson's actual words.

23 Another part of -- I think is very important and I told  
24 you when I first started out in this case, I think I mentioned  
25 that I didn't think demeanor was going to be that important in

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1 this case because we had professional liars. We had con  
2 artists. We had impersonators that could take that stand  
3 without sweating, could take that stand with a stern face and  
4 testify, but it didn't turn out to be that way and instruction  
5 number 7 that the judge may give, it talks about looking at the  
6 demeanor of the witness, and the demeanor evidence -- demeanor  
7 evidence is evidence.

8 And you can look at that demeanor. Look at Brown. Look  
9 how Brown sat. Look how Brown got vague. Look how when I  
10 asked Brown about you said there were six, there were five and  
11 you, and I asked him and he wouldn't answer. He became silent.  
12 Well, his silence spoke. Six people in that -- involved,  
13 possibly four people in the car.

14 Look at Paymond. Paymond's demeanor was fairly good after  
15 he decided that he was going to tell the truth. I had to turn  
16 him around a little bit. My cross-examination sometimes were  
17 objected to, but they weren't to try to put my words in his  
18 mouth but to create a relationship. Let's look at what Paymond  
19 said. Let's look at what Paymond gave us.

20 Paymond was one of the Government's better witnesses. His  
21 demeanor was fairly good after I got him to tell the truth. He  
22 first gives us nothing. He denies really knowing Watson. He  
23 knows Steph and BJ. He tells us BJ and Steph are together on  
24 9/11. He tells us that Steph and BJ leave around 4:00 p.m.  
25 That's what the detectives really were trying to pound him in,

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1 to get into their theory that timeline. He tells us that Steph  
2 and BJ leave around 4:00 p.m. and return afterwards. He  
3 clearly supports the Government's theory at first.

4 However, on cross-examination I open him up. I stress the  
5 importance of the truth. He begins to agree with me and  
6 appears to start telling the truth. His demeanor is good, his  
7 eye contact. He recalls good. He's not vague. He answers the  
8 questions. And what facts did we learn? We learned he watched  
9 the video. We learned he saw the commission of the crime. We  
10 learned he originally slanted the truth because he feared being  
11 charged with new crimes. That was real.

12 But he revealed -- he also revealed he deals with stolen  
13 goods and auto parts, which he didn't want to do that at first.  
14 He didn't want to do that too much with the interrogations of  
15 the officers because he didn't want to get charged with any new  
16 crimes.

17 But he also gave us some of the culture that you can rely  
18 on. He tells us -- he agreed that he knows Watson steals cars  
19 and deals in stolen parts. He's an in-between man on deals.  
20 That's his hustle. Brown and Watson hang together a lot. It's  
21 important because Brown tries to play down -- Brown, if you  
22 recall, tries to play down his relationship with Watson  
23 initially.

24 We learned that the DPD maintained that Steph fired the  
25 shots from the car. DPD is telling Paymond that's their

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1 theory. He told us he agreed with the police that Steph had on  
2 black as he wore on 9/11 while at his house the day before. He  
3 gives us a limited ID.

4 He tells us four people are in the car. He gave their  
5 description, 6'1", 6'2," the men got in the car. Detective Eby  
6 never told you that they believed Watson was the shooter.

7 He tells us he never saw Watson carrying a gun. So we get  
8 a lot from Paymond. Paymond also tells us DPD told him how  
9 they believe Brown and Chambers were involved in the murder.  
10 This begins to start that lie, that lie to evolve. He tells us  
11 that the FBI was trying to get him to accept their scenario of  
12 the shooting.

13 DPD told him they had cell phone results from Brown being  
14 at his house, that he could not identify the guy in the video  
15 who done the shooting. He didn't -- he was real. He said he  
16 couldn't identify him, but he could identify the clothing.

17 After constant presentation of the agents and the police,  
18 he agreed it could be Brown, and that's how these facts evolve.  
19 He never seen Watson carrying a gun. He never knew Watson to  
20 do hits or shoot people, and nobody ever came back and told him  
21 Watson was the shooter.

22 So, you see, that even with Paymond the Government is  
23 beginning to push their theory. They want to disregard the  
24 other two men in the car. There's no real investigation going  
25 on with respect to suspect Brown, but Brown becomes one of the

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1 main suspects of DPD.

2 See, DPD, if you remember, with Detective Mitchell, DPD  
3 did a solid investigation. DPD had a video. DPD got the phone  
4 records. DPD watched the video. Mitchell was straightforward.  
5 Mitchell talked about his crew. They finally got Brown as a  
6 suspect. They used him to insert his information in the  
7 affidavits, to get cell phone records, and Brown became a  
8 suspect.

9 But Brown wasn't arrested at that point. Brown was out  
10 there with Chambers and had an opportunity to talk about the  
11 case, look at the case, and finally Brown was named as the  
12 suspect.

13 Well, what happened later is that the feds came in, and at  
14 some point the feds decided they were going to arrest and bring  
15 an indictment, and it was at that point that Brown decided that  
16 he could be a shooter. That's how the lie begins to evolve.

17 Let's go back to the instructions and talk about  
18 Count One. Count One of the indictment charges the defendants  
19 with the use of certain interstate facilities in the commission  
20 of a murder for hire. The judge may give an instruction that  
21 you are going to have to look at these elements, and I would  
22 like to point you to element C, the third, and the reason I  
23 want to go there is because it talks about as consideration for  
24 receipt of a promise or agreement to pay anything of pecuniary  
25 value. Also, in Count One it talks about the use of certain

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1 interstate facilities in the commission for hire.

2 Well, the Court may instruct you that you must prove each  
3 and every element beyond a reasonable doubt, and if you look  
4 at -- I'm going to ask you to look at A when you get back  
5 there. A is going to become important. Did Watson use the  
6 phone? And you are going to have to prove that Watson used the  
7 phone beyond a reasonable doubt to in some way further this  
8 theory of murder for hire.

9 Let's refer to the most credible evidence to some extent  
10 that the Government has. It was the phone records that first  
11 led to the discovery of Brown as the shooter. We heard from  
12 the experts. We heard from their opinions. We have heard  
13 their analysis. We have talked about the cell towers, then  
14 finally we were hit with the Government's toll records  
15 analysis.

16 And what we know, and I'm going to go straight to the  
17 jugular on this, the Government only decided to use Belcher's  
18 phone records that led to other phone call and records to  
19 support their theory, and it's based upon their circumstantial  
20 evidence that they want you to find beyond a reasonable doubt  
21 my client used a telephone to commit this murder.

22 So I'm going to refer you to Government's Exhibit 16A, and  
23 when you get back in the back, you will be able to review this  
24 exhibit, and as you will see, I'm going to point you to  
25 Andre Watson at 978-3909. That shows one incoming call and one

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1 outgoing call. Now, this is on September 11th at the scene of  
2 the crime between 4:38 p.m. to 5:15 p.m., and in those records  
3 it will show you a timeline on these calls. And when you look  
4 at these facts, you will see that Watson's phone did not get  
5 busy until -- remember what Brown said. Brown said -- and  
6 again, that message is the link in the chain of the  
7 Government's theory because up until -- these phone records  
8 they rely heavily on. The phone records are probably some of  
9 the most credible evidence the Government has, and that's what  
10 they base their theory on.

11 As you know, there weren't requests made to get phone  
12 records for a lot of other times that might have been relevant.  
13 However, dealing with this, we have got Andre Watson. Well,  
14 this was fine until their witness gets on the stand and says,  
15 oh, I used Andre Watson's phone at that time. If you recall,  
16 at 4:51 Watson's phone called Belcher. It will show that, but  
17 Brown says he gave the phone to Watson. Brown says, I plugged  
18 my phone in to charge it, and I used Watson's phone and I  
19 called Belcher.

20 Now, as brother counsel said, we don't know what the  
21 nature of those calls are. We know that there's another  
22 exhibit of Mr. -- I think it's my exhibit, Watson's Exhibit  
23 Number 1, that talks about other phones that were used with  
24 Belcher's number. Well, we know that Watson had a relationship  
25 with Belcher. We know that Watson had called Belcher on other

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1 occasions. So -- but Watson wasn't calling everybody around  
2 the time of the incident. Brown was. Brown was, and I'm going  
3 to point that out to you. Brown was making the calls to  
4 everybody, and the phone records are going to show that.

5 What was Watson's purpose in calling Brown? If Watson in  
6 fact did call -- I mean, call Belcher -- what was it for? It  
7 could have been for anything. The first call Andre Watson  
8 is -- it's an incoming call, and then Belcher has an outgoing  
9 call. In looking at these records, there is really no pattern  
10 in the calls to suggest Watson was planning or participating in  
11 a plan to execute Wallace at the time he was shot.

12 Belcher, by this, calls back, but that could be for any  
13 reason. That could be because a call came in to him. He  
14 talked to Brown, and he returned that call. That doesn't  
15 necessarily mean that that's the only explanation for that call  
16 and that that call was related to the homicide. It's also  
17 reasonable to conclude that Belcher called back because he had  
18 just talked to Brown on the phone. So when you look at that  
19 instruction, weigh that evidence heavily, on whether or not he  
20 used the phone to in fact facilitate the homicide.

21 When you look further into that instruction, it's  
22 important to look at, as I said, C and 7 on Page 18. 7 talks  
23 about:

24 The Government must prove a quid pro quo between the  
25 person who solicits the murder and the person who would commit



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1 the murder. In other words, it requires a mutual understanding  
2 that something of value will be exchanged for committing a  
3 murder. You may find the defendant guilty regardless of  
4 whether the payment occurred or was to occur in the future.

5 B, and I'm going to tie it together, B says that:

6 The defendant did so with the intent that a murder be  
7 committed under violation of a Michigan law.

8 So we really don't have any evidence of Watson's intent.  
9 What we do know is intent must be shown by words and actions.  
10 So if you look at what Brown did, Brown testified that Chambers  
11 covered up the plate. Brown said he got out, looked at the  
12 plate, and made sure it was covered. Brown went into -- Brown  
13 went in and bought the gloves. Brown claims he fired his gun  
14 at Wallace and he intended to kill Wallace. Brown testified  
15 that Mr. Chambers pulled off when the bus moved. Brown used  
16 Watson's phone just before the murder. Brown agreed to accept  
17 money, condo and car to kill Wallace. Brown said his purpose  
18 was to kill Wallace. Brown asked Bailey for locations of  
19 Wallace. Brown was in communication with Bailey on an unknown  
20 phone.

21 There's no testimony to corroborate independently of the  
22 lies of Brown or the other con artists or the thieves or the  
23 other professional liars that Watson was involved at that time.  
24 We don't have any acts that we can attribute to Mr. Watson  
25 other than their lies that he shot and things of that sort.

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1       The quid pro quo? That brings us to looking at what  
2 really happened at Zeidman's. Brown tells us a lot about  
3 Zeidman's on cross-examination. Mr. Brown agreed he never saw  
4 Watson get any of the money or property offered at Zeidman's.  
5 Brown agreed he never heard Watson accept \$2,000 for the  
6 killing of Wallace. Brown agreed he never heard Watson accept  
7 15,000 for the Wallace killing. Brown agreed he never heard  
8 Watson agree to kill anybody for any amount of money at that  
9 time. Brown agreed he never heard Watson tell Bailey that  
10 Watson would get involved and kill Wallace because Wallace was  
11 getting in the way of Byrd or Gino's drug business.

12       That's important. That's going to be important when it  
13 comes to looking at the conspiracy count and the  
14 drug-trafficking count. Brown agreed he didn't know of  
15 Watson's contacting Belcher after the beating.

16       What did Bailey testify to about the Zeidman's killing?  
17 And this goes to quid pro quo and things of that sort. Bailey  
18 testified Brown walked up to the car window. Brown talked to  
19 Belcher, as brother counsel said. That was supposed to be  
20 about marijuana, but what would Watson know? Watson was in his  
21 car with a girl, but Brown, Brown didn't want to really testify  
22 to that. He was untruthful. We had other evidence that came  
23 in that said Brown was with a girl -- I mean, Watson was with a  
24 girl.

25       Brown is discussing marijuana with Belcher. Bailey agreed

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1 Watson never got out of the car and approached him at  
2 Zeidman's. These are acts that never happened. There's  
3 nothing to infer from Watson's conduct at that time other than  
4 the fact that he was present.

5 Bailey agreed that Watson didn't get out of the car and  
6 talk to him about killing Wallace. Watson didn't get out of  
7 the car, and Bailey never offered him 15,000 to kill Wallace.  
8 Bailey agreed he did not promise Mr. Watson payment of any sort  
9 for killing Mr. Wallace. Bailey said we never discussed it  
10 ever.

11 These are words. These are the kind of corroborating  
12 facts that you can use that are independent of what somebody is  
13 trying to get you to infer.

14 Remember, the claim is Bailey also wanted Wallace killed,  
15 but Bailey makes it unequivocally clear there was no  
16 discussions in the presence -- in his presence with Watson to  
17 kill.

18 Brown attempts to inject Watson's mental state and intent  
19 by asserting Watson agreed with him to kill. That's what Brown  
20 does throughout the case. Brown begins to put Watson with him  
21 because around March 8th when the indictment came down Brown  
22 learned that he was facing death. Brown learned that he could  
23 no longer be the shooter. Brown knew that he had to make  
24 someone else the shooter.

25 There's no evidence Watson agreed with any solicitors.

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1 Who was soliciting? They maintain it was Belcher and Bailey.  
2 There's nothing to suggest that Watson ever spoke with  
3 Mr. Belcher throughout this case about killing anyone.

4 There's no evidence independent of what Brown, BJ and  
5 Bailey are saying Watson did. All we have is the testimony of  
6 the liars, the cheaters and so on.

7 Brown tells Chambers at the detention center that he wants  
8 to get his money, 15,000, a car and a condo. He wants his  
9 money for the deal that he made for the killing that he, he had  
10 done. Brown tells Chambers Watson was offered the same thing.  
11 Here again, we have got Brown telling Chambers that Watson was  
12 offered the same thing, but we have those facts before us.

13 You have to use your common sense in these instances.  
14 Have you ever stood next to someone? One person is making a  
15 representation, you are standing there, and you are like I'm  
16 not agreeing with what he's saying. I'm not with that. That's  
17 the kind of common sense that we have to look at here.

18 Brown told Chambers I hope my cousin don't play me because  
19 if he do I'm going to kill him too. This is when he's talking  
20 about getting his payment. But you don't have any, any words  
21 or acts that you could infer that type of intent with Watson.

22 Brown and Bailey even agree that Brown was offered a car,  
23 money and condo to kill Wallace. This is all in the evidence.  
24 This is what's before you. This is what you take back and  
25 apply to these instructions.

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1           There's no facts that Watson tried to reach a mutual  
2 understanding about what he would do or what he would receive  
3 for killing Wallace. Where do we get those facts? Where do we  
4 get the facts that Watson said anything out there?

5           When Brown said he went to the Family Dollar, Brown said I  
6 went in and purchased gloves. That's different than a lot of  
7 evidence we heard on the Family Dollar. We know Brown said  
8 earlier in other statements he didn't even go to a Family  
9 Dollar.

10           And Brown says he bought gloves, not any other items.  
11 Brown then says -- he changes. He says, well, that was  
12 something else.

13           Watson never spoke any words while allegedly standing near  
14 Bailey, Brown or Belcher while in discussion of any plan. The  
15 only facts we have that Watson received anything are based on  
16 Brown and Bailey's statements. Brown pled. He was made an  
17 offer. He pled it in his plea agreement, though at first he  
18 tried to deny it.

19           He pled. He was made an offer. Not him and Watson.  
20 Watson stood near. Those are the facts.

21           Brown and Chambers testified that Brown went looking for  
22 Belcher and Bailey for payment. Brown told us he was armed  
23 with a chopper, an AK, and in the car with Chambers. Brown and  
24 Chambers again.

25           Brown says when he pulls up, "Damn, man, shit, what's up

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1 with that money?" Those are words spoken. You can take those  
2 to the bank. Those are real facts.

3 "I told Chambers to pull in front of Belcher's car."  
4 Those are the kind of facts you plug in.

5 Brown gave Chambers the chopper. And I asked him, "You  
6 were trying to put somebody in fear?" He didn't, didn't say he  
7 had the .40 caliber that he allegedly had. He's got a chopper.

8 Brown tells Chambers in the detention center -- see, these  
9 go to number 7, pecuniary, what were you getting? Receipt,  
10 payment.

11 Brown tells Chambers in the detention center that he's  
12 going to give him a couple of dollars. We further learn Brown  
13 called Bailey. Bailey said, "I've got 1600 for you." Brown  
14 tells Bailey he has a tether. That's what Brown tells us, he's  
15 on a tether. Brown says he sent Watson. What do we have to  
16 support that? What do we have to corroborate that fact other  
17 than a liar? You saw his demeanor. He lied when he wanted to.

18 So then Brown says he sent Watson. Did Watson go? Do we  
19 have any evidence that Watson ever went to the casino? Do we  
20 have any videos? Is there any other corroborating facts that  
21 that occurred?

22 And if Watson did go, do we know that Watson even knew  
23 what he was receiving money for? It's just we don't have  
24 anything there but Brown's words.

25 Bailey says he gave Watson \$2,000. So these lies are

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1 inconsistent, and my argument is they are made to just tie  
2 Watson into the conspiracy to kill and to establish he received  
3 proceeds for his part in the killing.

4 Bailey says when he saw Watson at the casino we did not  
5 talk. He just handed Watson the money, and he left. Bailey  
6 paid that money to Watson allegedly because he wanted to get  
7 Brown paid something, he says, because Brown was looking for  
8 his money.

9 When you go down and you look at the rest of Count One of  
10 the indictment, you will be able to consider the intent that we  
11 talked about.

12 And, as you go into Count Two of the indictment, Count Two  
13 is talking about conspiracy to distribute controlled  
14 substances. I think that this is going to be a little bit more  
15 easier for you to deal with at the beginning, but it gets  
16 complicated at the end, and we believe that there's no, no  
17 criminal partnership whatsoever with Belcher and Bailey in the  
18 drug conspiracy, and you will be able to look at that and I'm  
19 going to move quickly through that.

20 There's no testimony that Mr. Watson distributed or sold  
21 cocaine, Oxycontin or any other drugs, and you can go down and  
22 look at whether or not there was an agreement with anyone. Of  
23 course there's no evidence of that, no evidence he ever joined  
24 a conspiracy.

25 And the instructions that the judge may give you can plug

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1 in the facts, as we have been doing. Bailey testified that  
2 Watson never accompanied him or Belcher on any runs or anything  
3 of that sort. You've got to look at who did he conspire with,  
4 and I think these instructions, you know, you have to look at  
5 the facts. There's nothing to suggest that he was ever present  
6 packaging, delivering, anything that shows that he acted in  
7 furtherance of the conspiracy. More importantly, there's no  
8 facts that he was present and associated with Belcher, that he  
9 agreed to work for Belcher or sell drugs for Belcher.

10 And there's another issue that the Government is going to  
11 really attempt to ride on, and that is enforcer. And the  
12 enforcer first came up based on my cross-examination, and I  
13 cross-examined because I had no fear there. I wanted you to  
14 know how the lie had evolved. See, the enforcer came in later,  
15 recent. That's one of the most recent fabrications. That's  
16 how far the lie evolved.

17 So now we had enforcer, and you've got to look at that  
18 evidence. You've got to look at Brown trying to, to hint that,  
19 that he saw Watson standing on the porch on Beniteau. Well, if  
20 you look at these instructions, and one of the main  
21 instructions is going to be in one, two, three, part four of  
22 that instruction.

23 One more point about the agreement. The indictment  
24 accuses the defendants of conspiring to commit several drug  
25 crimes. The Government must prove an agreement to commit at



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1 least one of them.

2 And then if you look at 4 of Part C: But proof that a  
3 defendant simply knew about a conspiracy or was present at  
4 times or associated with members of the group is not enough.

5 You see, Brown tries to say at one point he saw Watson  
6 standing on a porch with a gun hanging off of him. The  
7 testimony was so bad. Hanging off from where? I mean, hanging  
8 off from where? You've got to look at that. I mean, it speaks  
9 for itself.

10 It's not enough to put him there. He's trying to, what,  
11 make him an enforcer? Look, use your common sense. We know  
12 what enforcers do. Enforcers don't go around killing the  
13 people that owe the debt. They go around threatening. They go  
14 around collecting. They go around trying to get payment for  
15 the debt. There's no evidence. There's not one incident.

16 Aday didn't know him. Mr. Belcher's woman didn't know  
17 him. Nobody's seen him. No evidence that he approached  
18 anybody to collect a debt. No evidence that he worked with  
19 anybody, Brown, as an enforcer.

20 So look and see closely what the Government attempts to do  
21 in this case. They can't give you anything else that ties him  
22 to a drug conspiracy, and the fact that he was at somebody's  
23 house, the fact that he was seen, the fact that he even knew  
24 Belcher sold drugs, the fact that he knew Belcher sold drugs  
25 and other things is not enough to make him a part of the

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1 conspiracy.

2 Read that closely. It's big on association. Even if he  
3 approved of what was happening, that's not enough. Even if he  
4 had done something that he didn't even know that he helped,  
5 it's not enough.

6 You've got to look at the drug-trafficking count with this  
7 conspiracy to sell drugs because that's where they are  
8 trying -- you are not going to find any evidence of the drug  
9 conspiracy, but what happens is they are trying to connect it  
10 to the drug trafficking, the use of a firearm, the homicide.  
11 That's what they are trying to do, and there's no testimony  
12 Watson knew the murder was going to happen. They want to place  
13 him in the car. All we have is the conflicting evidence, no  
14 independent corroborating facts to support any circumstances.

15 And, again, you are going to have to look at the intent.  
16 Brown says me and Chambers pulled off after the bus pulled off.  
17 Look at those facts. I talked to you about what Brown and  
18 Chambers did, and look at how the lie evolved. Just 30 days  
19 before this trial we get a new statement from the Government  
20 and the agents that says Brown and Chambers took the vehicle  
21 13 days after the killing, washed it down with bleach to hide  
22 the evidence, and they found a slug, a shell casing in the car.

23 How convenient. How self-serving. I'll bet you it was a  
24 .40 caliber, right? That shows the evolution of the lie. That  
25 shows you how still -- their incentive to lie to try to better

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1 their deal.

2 Remember, they violated -- that shows -- these recent lies  
3 show that they violated every agreement that they ever entered  
4 into. The *Kastigar* agreement, I questioned him on that.  
5 *Kastigar* says tell everything. The plea agreements. The  
6 cooperation agreements. They are liars, they are cheaters, and  
7 they violated every, every promise that they made to the  
8 Government, and the Government --

9 **THE COURT:** Mr. Johnson, you have five minutes.

10 **MR. JOHNSON:** That quick?

11 **THE COURT:** Five minutes.

12 **MR. JOHNSON:** Oh, Lord. Okay. Judge, I'm going to  
13 need more time.

14 All right. Ladies and gentlemen, look at the indictment.  
15 I believe the indictment is part of the evolution of the lie.  
16 They couldn't make this case, they couldn't make this case so  
17 they brought a superseding indictment. Look at that closely.  
18 Look at that closely.

19 And what I want to say to you is that when you go back and  
20 decide this case, look at the facts. I need you to carry the  
21 ball in this case. Don't be intimidated by anybody else, their  
22 education, their status or anything of that sort, but I need  
23 each and every one of you all to hold the line. If you believe  
24 after you hear this evidence, if you believe that there's not  
25 sufficient evidence, then I need you to hold the line.



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1           And if you look at Exhibit 16.2, it shows that during that  
2 week there were phone calls between Belcher and all of the  
3 people involved. Between the week of the murder he said that  
4 there was no calls there. There were calls in that week. It's  
5 right there, Exhibit 16.2.

6           You know, it's really interesting that the first thing  
7 they want to say is that these guys were liars, they were  
8 cheaters, they were this. But think about it. Wasn't that the  
9 thing that made them so vital to this whole situation, right?

10          Because, with regards to Mr. Brown, when his cousin is  
11 sitting there with DPD, the first thing he throws out, he  
12 throws him under the bus. Don't hang with him, he a thief,  
13 steals ATMs and what not, all right? But he was still the  
14 person that he called and talked to and had that conversation  
15 at the Zeidman's about committing this murder.

16          If you want to do this, you want to have it in house, you  
17 want to have somebody close to you. You don't go to the door  
18 of a seminary and say, hey, can I get a student out here, I  
19 need to use you, I want you to go take this hit for me on  
20 somebody who is messing with my money, all right?

21          You want somebody who has been involved, who has a  
22 criminal record, who has a criminal past, who is susceptible to  
23 doing this, and especially if it's your cousin because you feel  
24 like with your cousin, they are in-house, they are somebody you  
25 can trust.

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1           And what do we know? Out there on the scene, who was out  
2 there that was related to him? His cousin Bailey and then his  
3 cousin Brown, who pulls up with Chambers and Watson in the  
4 backseat. All right? Those are connections to him.

5           So you can't say -- you can't have it both ways. You  
6 can't say, oh, they have felony records and what not. That's  
7 what made them vital. You want to say Bailey is a fraudster.  
8 That's what made him vital in the car fraud scheme because he  
9 knew how to hook that up. That's why you needed him in the car  
10 fraud scheme.

11           You heard him in the video with Detective Mitchell talk  
12 about Cuz being able to hook your credit up, fix your credit up  
13 stuff. Oh, but now you want to come in and say they are no  
14 good, they have felonies, they are this. Well, that's why you  
15 needed them from the get-go. You weren't complaining then,  
16 right?

17           At the meeting at Zeidman's, you're not complaining then:  
18 You know, Cuz, I can't use you, you've got a felony. You know,  
19 Bailey, I can't go for this because, you know, you in that  
20 fraud stuff. It doesn't make sense.

21           Yeah, I agree with brother counsel. When you go back  
22 there, you don't check your reason and common sense at the  
23 door. You take that same reason and common sense that you were  
24 born with, that you walked in this courtroom three weeks ago  
25 with, and you use that in making your decision in this case.

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1           You know, they want to talk about witnesses saying things  
2 at different times and things of that nature, and I believe  
3 this Court is going to give you an instruction that sometimes a  
4 witness will see and hear things differently, and that doesn't  
5 mean that they are lying or mistaken.

6           For example, I just threw up some coins and they landed.  
7 Some of you will say, Mr. Haugabook threw up some quarters and  
8 they landed on the floor. Some of you will say Mr. Haugabook  
9 threw up some quarters and some pennies and dimes, and they  
10 landed on the floor. Some of you will simply say Mr. Haugabook  
11 threw up some change and it landed on the floor. But, is there  
12 any doubt that each of you are right? Sometimes witnesses will  
13 see and hear things differently, but that doesn't mean that  
14 they are incorrect.

15           The next thing, when you're going out and you're  
16 committing this murder -- I don't know if you have ever seen  
17 Jimmy Kimmell, but sometimes he does this little skit "Dear  
18 Diary," all right? That's the last thing you're trying to do  
19 when you go out and commit a murder. I'm going to write down  
20 that on this day I talked to this person at this time and what  
21 not. It just doesn't work like that.

22           What we had here was the simple fact that everything was  
23 able to be discovered because they made a mistake. The mistake  
24 was they committed this murder on video, and the mistake was  
25 they carried these with them because everybody in this day and

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1 age knows that when you walk around with your cell phone, as  
2 I'm holding up my cell phone, your cell phone can tell on you.  
3 Your cell phone can tell where you are, where you have been,  
4 who you have been calling, what location you are in. That's  
5 how this was put together.

6 A tip led them to Brown. They started working up Brown's  
7 cell phone evidence. They immediately brought Mr. Belcher back  
8 in, and they started reinterviewing him.

9 And what did he do? He started lying. Don't know Brown,  
10 don't talk to him, don't deal with him, you know, and one of  
11 the things they want to say is that, well, you know, Mr. Shea  
12 said, well, you know, the fact that this was a block from his  
13 house and, you know, he had his child, are these things  
14 consistent with a murderer?

15 Well, when you're sitting down with homicide and you are  
16 being asked about why are you having contact with somebody that  
17 we believe is involved in a homicide and you start lying, is  
18 that consistent with somebody who isn't involved or is that  
19 more consistent with somebody who is? And that's what we have  
20 here, somebody who was lying because they were involved with  
21 the person and in the scheme. That's what we have here.

22 So he was being investigated by homicide, Mr. Belcher, and  
23 he's being questioned about being in contact, and the first  
24 thing he does is he starts telling different lies and stories.  
25 He says that the sole reason was because, and I submit to you,



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1 the sole reason was because it would unearth the entire  
2 murder-for-hire scheme. So that's why he doesn't know Brown.  
3 He wants to attribute that number to Block. He wants to say  
4 that he doesn't hang with his cousin. He wants to say that his  
5 cousin is still in jail. Those were all of the reasons that  
6 he's trying to do that because he's trying to distance himself  
7 and hope that nobody uncovers his connection and unravels the  
8 entire murder-for-hire scheme.

9 I heard brother counsel say there's lots of reasons to  
10 talk to each other and lots of it was illegal, brother counsel,  
11 Mr. Shea. Yes, I agree with him, and the main illegal reason  
12 was that murder for hire, that murder for hire to kill Wallace.

13 He wants to talk about that jail call where Ms. Banks  
14 calls in, and he talks about there's a portion, oh, we know you  
15 didn't do that or what have you. She and Belcher were playing  
16 a role. As you know, Mr. Belcher is good at playing a role  
17 because he showed up at the scene at the end of the murder and  
18 immediately started playing the role of, you know, this was due  
19 to snitching and all of this kind of stuff. He and Bailey, all  
20 right, they played a role there.

21 But the problem is, what happened is these guys made a  
22 mistake: They had their cell phones with them. Their cell  
23 phones corroborates their information. It corroborates  
24 Chambers, it corroborates Brown, and it corroborates them when  
25 they say that Watson was there.

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1           And what do we know? Bailey said that Belcher told him  
2 afterwards that it was indeed Watson. So it corroborates  
3 Belcher as well for telling that to Bailey, and we know that  
4 Mr. Belcher was there because he's on the video.

5           Now, brother counsel wants to -- all of this stuff  
6 about -- brother counsel for Mr. Belcher put in exhibits of  
7 lots of contacts with Brown, but, okay, well and good, but when  
8 it came -- push came to shove and you're sitting down with  
9 Detective Mitchell, his client wasn't putting in contacts  
10 with Brown. That's the last person he was having contacts  
11 with. The last person he knew, the last person he was having  
12 contact with was Brown, didn't even know his last name, his  
13 cousin, Facebook friend, don't know his last name. But that's  
14 what happens when you prevaricate, obfuscate and deviate from  
15 the truth, as Mr. Belcher did.

16           What do we know? Mr. Belcher couldn't keep his lies  
17 straight because the video evidence belies that. He exited the  
18 Camaro while talking to Brown, two calls, 10 and 95 seconds.

19           He wants to talk about an 80-second call with Bailey.  
20 Bailey told you that was, and you all have heard this phrase,  
21 that's a butt call because Bailey, standing there on the other  
22 side of the car, you never once see Bailey put anything to his  
23 ear. So that's a butt call. That's an open call.

24           What do we know? All five of these individuals lied in  
25 the beginning. Yes, they did. But three of the five knew they

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1 couldn't deviate from the facts that we have put before you  
2 that shows their guilt, that also corroborates their testimony  
3 here, and that's the cell phone evidence. They could not get  
4 away from that, and three of the five have pled guilty to  
5 murder for hire and agreed to testify before you and their deal  
6 requires them to testify truthfully.

7 And you heard from Agent Rienrth. The reason why a lot  
8 of things differ from statement to statement is because people  
9 start remembering things later and more as it goes along. So  
10 at every interview somebody will come along and remember.

11 Like, for example, when I threw those coins down, like I  
12 said, if we go back to that, some of you will say what I said  
13 you will say, that I just threw coins down, and some will be  
14 more specific. But if you were asked and told ahead of time  
15 I'm going to throw coins down, I need you to remember, maybe  
16 everybody would do a better job of remembering.

17 But that's not how a murder works. You don't say we're  
18 going to commit this murder but I need everybody to remember,  
19 you know, Step A, Step B, Step C, all the way to E, Z, F1, F2,  
20 all of those things. That's not how it works. Use your reason  
21 and common sense, ladies and gentlemen.

22 They want to talk about the Pantheon attempt on  
23 August 25th. Well, I'll get to that in a moment.

24 So what do we know here? They want to talk about whose  
25 phones are being called. The first thing we know is when those

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1 shooters are in the area whose phones are they calling? They  
2 are not calling Bailey's. They are calling Belcher's because  
3 he's the money man. He's putting out the money for this. They  
4 are calling Belcher's phone, and as I had 16.7 on the board, it  
5 goes to show that. It goes to show that.

6 Mr. Belcher's lawyer, Mr. Shea, says that, you know, Brown  
7 couldn't keep things right, but as I indicated -- couldn't keep  
8 things straight, but as I indicated, just like with the coin  
9 situation, everybody is going to remember things differently.  
10 As a matter of fact, when he was even trying to tell you about  
11 what Mr. Brown could or could not remember, he couldn't even  
12 remember the day that Mr. Brown testified because the first  
13 thing he said was days blend together, I can't remember when he  
14 testified. So he wants to challenge other witnesses because  
15 they can't remember or they remember things differently?

16 He wants to talk about the voice over the phone, whether  
17 that was before going to Zeidman's or after going to Zeidman's.  
18 It doesn't matter. It doesn't matter because what that is  
19 saying is that the meeting happened and the statement was made  
20 and the statement was made in the presence of Belcher and  
21 Watson was there.

22 Brother counsel for Watson wants to talk about the fact  
23 that, you know, Watson never said these words of acceptance or  
24 anything like that. Well, I believe this Court is going to  
25 tell you that with regard to a particular person in this case

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1 you can determine their intent by what they did, what they  
2 said, how they said it, how they did it or any other facts or  
3 circumstances that come into evidence.

4 When they are standing there with Brown and they are being  
5 offered this opportunity for money, a condo and a car to go do  
6 it, he goes out with Brown and he starts hunting. He goes out  
7 with Brown on September 11th. His phone is there even though  
8 he tells Agent Rieneerth ain't been there, nope, ain't been  
9 there, I don't even know Brown, I don't even know Chambers, I  
10 don't even know a Byrd. All of those things were belied by the  
11 contacts in his phone.

12 And what do we know? Bailey paid money that filtered to  
13 Brown through Watson. So why is he picking up money? Why did  
14 he take the \$10,000 that Brown said Bailey said he gave to  
15 Belcher and that Brown never got? Because, as you know, that's  
16 what ticked Brown off. Brown got tired of the runaround of not  
17 getting his cut, and that's why he went hunting for them. So  
18 whether he said the words of acceptance or not, what he did,  
19 those are critical for you to understand that he was part of  
20 the deal, his actions, what he did, how he did it, when he did  
21 it.

22 Brother counsel says the only person that says there was a  
23 motive was Bailey. That's not true. Banks told you. Banks  
24 told you that Belcher said he was greedy and had to go.

25 There's a phone call, there's a phone call from Bailey to

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1 Brown that took place because Belcher was not answering about  
2 Motor City. So when you look at that, look at that as part of  
3 the reason of some of the calls between Bailey and Brown.

4 Bailey did ask other people to kill Wallace. Ms. Banks  
5 told us that. She also told us that Bailey asked Belcher to do  
6 it -- asked Belcher if he did it and Belcher confessed that he  
7 had to go. Bailey was not the only one to reveal the motive.  
8 Banks told you, and that was through the words of Belcher.

9 How interesting, ladies and gentlemen, that the lie given  
10 by Bailey that Wallace was a snitch just happens to be the same  
11 one that Belcher tells police at the scene.

12 Remember, Bailey had no deal when he spilled his guts to  
13 Sean Jackson. Regardless of whether Bailey feels like he  
14 should do time, as brother counsel is arguing, you have heard  
15 that he will serve 25 years for his involvement in this crime.  
16 Counsel suggested Brown and Belcher did not call one another,  
17 but as I told you, that's been pointed out to be untrue.

18 With regard to, with regard to what brother counsel for  
19 Mr. Watson just argued, let me leave you with this. He says  
20 that there was a lack of evidence, but, ladies and gentlemen,  
21 the testimony is evidence, the Court is going to tell you that,  
22 and the exhibits are evidence and the exhibits support the  
23 testimony of the witnesses.

24 We don't need a gun. Wallace, was there any dispute that  
25 Wallace died from a gunshot wound? Is there any dispute? I

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1 don't think so. Circumstantial evidence is enough to convict  
2 by itself, ladies and gentlemen, but this is not just a case  
3 built on circumstantial evidence. Brown testified, Bailey  
4 testified, Chambers testified. There's video of the shooting.  
5 There's cell site analysis and exhibits that support the  
6 testimony of these witnesses. This, ladies and gentlemen, is  
7 direct evidence.

8 So, brother counsel for Mr. Watson said that, again, going  
9 back to the no words or acts, we know that he agreed when he  
10 shot Wallace, we know that he agreed when he tried and did  
11 collect money, we know that he agreed when he went to Motor  
12 City and picked up the money.

13 He wants to talk about Brown saying five people as opposed  
14 to six, but Brown clarified that as a misstatement, and then he  
15 counted off with me, if you remember, the five people. He said  
16 it was Brown, himself, Chambers, Bailey, Watson and Belcher.

17 Chambers, you know, he wants to talk about payment and  
18 what happened on that day, but remember, Chambers said that was  
19 a different day when they were there and Mr. Brown had on the  
20 black. And brother counsel in his own statement said, in  
21 arguing to you, he just said the same thing he said with  
22 respect to Brown, he was wearing black and, in defense  
23 counsel's words, the day before. So that is consistent with  
24 what Mr. Bailey said.

25 Counsel said Watson had a relationship with Belcher. Yes,

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1 enforcer, but Watson said he didn't know Byrd despite having  
2 two numbers for Byrd.

3 You will find that for Count One the instruction says that  
4 a person used or caused another to use a phone, and as you  
5 know, a phone was flying back and forth between Watson and  
6 Brown, all right? So Watson was letting Brown use his phone.  
7 Brown was using the phone. Brown was using his own phone until  
8 he had to put it on the charger. The bottom line, they were in  
9 the area being set up, ready to commit the murder based on the  
10 information they got from Belcher in the earlier calls from  
11 Belcher as he pulled up to the scene.

12 Brown told you that he and Watson talked to Belcher and  
13 that they passed the phone back and forth, but independent of  
14 that, Watson caused Brown to call when he handed him the phone  
15 for the purpose of calling Belcher.

16 Brother Counsel says there was no quid pro quo. There  
17 was. Watson was picking up money from Bailey because of  
18 Brown's inability -- Watson was getting the \$10,000 Bailey gave  
19 to Belcher and not giving it away to Brown, and this prompted  
20 Brown to knock Bailey and Belcher down because of getting the  
21 runaround.

22 So let's talk about Brown said that by July he knew no one  
23 was facing death. Remember that. Brother counsel brought that  
24 up. Brown admitted his involvement in firing the gun and he  
25 took a plea to murder for hire, and yes, he took a plea deal



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1 that requires him to testify truthfully before you and do  
2 20 years. And his testimony, I submit, was supported by the  
3 evidence, that being the cell sites, that being the corporate  
4 cases.

5 But, remember, Watson was so worried about Chambers that  
6 he had him sign that affidavit, which doesn't fly with anything  
7 Paymond came in and told you, and it makes up stuff about  
8 Paymond having a dispute with Watson and it makes up stuff  
9 about Brown having a dispute with Watson, and you heard that  
10 none of that was true. You haven't heard anybody say that  
11 those things were true, I should say.

12 He wants to say nobody knew Watson. Well, not everybody  
13 in the conspiracy needs to know one another, and I suspect the  
14 Court will tell you that. But Belcher knew Watson and knew him  
15 to be his enforcer. Belcher gave him the \$10,000, which sent  
16 Brown hunting.

17 The last thing I want to bring out for you is what do we  
18 know that is consistent with all of this evidence? Let's talk  
19 about the drug dealing.

20 Deaunta Belcher, drug dealer. You heard him say that.  
21 You heard other people say that. Darnell Bailey said that they  
22 were -- that he was a drug dealer and that they had the drug  
23 scheme interwoven with the fraud scheme. Check that off.

24 Franklin Aday said Belcher was a drug dealer. Check that  
25 off.

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1           Latasia Banks said she was a drug dealer with Belcher.

2           Check that off.

3           Stephen Brown said that Belcher was his drug dealer  
4           because he got marijuana from him. Check that off.

5           And the cell phone extraction showing drug proceeds, you  
6           can check that off, showing drug communications and things of  
7           that nature.

8           The car fraud scheme. Deaunta Belcher told police about  
9           it and being involved in it. Darnell Bailey told you about the  
10          car fraud scheme. Latasia Banks told you about it.

11          Now, there was some, there was some talk about -- by  
12          brother counsel for Mr. Belcher that drug dealing does not  
13          equate to being a murderer. Well, let's explore that.

14          The whole point of drug dealing is to make money. That's  
15          the whole point, all right? But, if someone like Wallace, the  
16          smooth talker, as you heard, because this car fraud --  
17          remember, I told you it's two sides of the same coin, this car  
18          fraud and drug-dealing scheme. If somebody like Wallace, the  
19          smooth talker, as we have heard, has the connection and starts  
20          interfering with that money, then, yes, drug dealing can equate  
21          to murder because what we had here, ladies and gentlemen, you  
22          can't just ask him to step aside, he was a smooth talker with  
23          connections.

24          So what do you have to do and what was done? You do a  
25          hostile takeover. You murder him and get him out the way so

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1 that he can stop interfering with your money, and that's  
2 exactly what happened.

3 What do we know about where that was hatched at? The  
4 hostile takeover was hatched at Zeidman's. Who told you that?  
5 Darnell Bailey. Who else told you that? Stephen Brown.

6 What do we know about the Pantheon Nightclub? It doesn't  
7 matter if it was day or night. The phone records support  
8 Watson and Belcher being there. Who told you about that?  
9 Darnell Bailey and Stephen Brown, call detail records. So it  
10 doesn't matter whether it was day or night, the phone records  
11 put them there as going to hunt for Wallace.

12 The Faircrest was brought up for you just so that you can  
13 understand the frame of reference of where they left from so  
14 that you have the vantage point of knowing where those cell  
15 towers are hitting showing them moving down to do the killing.

16 And who told you they were at Faircrest just before the  
17 killing? Stephen Brown, Billy Joe Chambers, and the call  
18 detail records.

19 And where were they headed to and where were they going  
20 to? Well, Brown told you. Well, you know from the security  
21 video they came down to They Say. You know from Darnell Bailey  
22 that they were there at They Say to do the killing, and you  
23 know from Stephen Brown that he had gotten that final call from  
24 Belcher telling him that the big fish was on the line and to  
25 report to They Say.

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1           Who else told you? Billy Joe Chambers, he was there and  
2 he told you. The call detail records, they verify that.

3           Who shot Wallace? How do we know that? Darnell Bailey  
4 tells you because he said that Belcher told him that it was  
5 indeed Watson. Stephen Brown told you because he was in the  
6 car, and he told you how he fired and how Watson got out and  
7 fired. Billy Joe Chambers told you because he was the driver  
8 and Brown was his front seat passenger. So Billy Joe Chambers  
9 told you he jumped out of the backseat and did the firing. The  
10 call detail records tell you all three of them were in the  
11 area, and the surveillance video tells you.

12           What was this lie that was created? What was the  
13 snitching cover story? Because, again, it was to keep the  
14 information about everybody's involvement from getting back to  
15 federal law enforcement. It was to hinder that information.  
16 As a matter of fact, that's why -- you know, they want to talk  
17 about the indictment being charged. Remember, that's why it's  
18 charged that way. The indictment that they admitted as an  
19 exhibit was based on this theory that was implanted by Belcher  
20 all related to the fact that Wallace was a federal witness  
21 until the real deal came out in terms of the investigation and  
22 we knew that that was a cover story.

23           But who all shared in this snitching cover story?  
24 Deaunta Belcher, Darnell Bailey, and Mr. Jackson, who told you  
25 that Darnell Bailey told him that in 2016. This was before any

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1 plea deals.

2 Do we know that money was involved, that this was a  
3 motive, money was a motive? Uh, yeah. What about the Parkside  
4 project situation? Stephen Brown was incensed he wasn't  
5 getting his cut so he hunted him down with a chopper.

6 Who else told you about Stephen Brown showing up in the  
7 Parkside projects? Darnell Bailey. And who else?  
8 Billy Joe Chambers, because, as Chambers told you, he was then  
9 driving his girl friend's Rendezvous.

10 Did money change hands? Yes.

11 Who told you that? Darnell Bailey and Stephen Brown.

12 Because Darnell Bailey told you that he met Watson at the  
13 casino and handed him money, and Brown told you that he  
14 couldn't go because he was on a tether and he sent Watson and  
15 Watson came back and brought him the money.

16 And, finally, what do we know this was all about? Again,  
17 it was a hostile takeover, and the motive was greed. Who told  
18 you that there was some discourse and descension underlying all  
19 of that, this was all about money? Darnell Bailey.

20 Who told you that? Stephen Brown, because he heard a  
21 phone conversation about dog messing with my money.

22 So Stephen Brown, and who else told you that?  
23 Sean Jackson, because he was told that by Mr. Bailey as he was  
24 his bunkee.

25 And who else told you that? Latasia Banks because what

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1 did she say Deaunta Belcher confessed to her? Wallace had to  
2 go.

3 Ladies and gentlemen, thank you for your time and  
4 attention over these last three weeks. As you can see, the  
5 Government has proven each and every element of these offenses  
6 charged beyond a reasonable doubt. We ask you to return the  
7 only verdict which this evidence supports, and that's that  
8 these two defendants are guilty with the rest of the three for  
9 the counts charged as well as the murder for hire.

10 Thank you for your time and attention.

11 **THE COURT:** Thank you.

12 Ladies and gentlemen, we are going to recess now until a  
13 quarter to 2:00. Marie has your lunch. She will have to bring  
14 it over from our chambers over to here and a quarter to 2:00 I  
15 will instruct you on the law of the case. Thank you.

16 You are excused.

17 **THE CLERK:** All rise for the jury.

18 (Jury out at 1:05 p.m.)

19 **THE COURT:** Sit down for one minute, please.

20 I anticipate that the instructions will be completed by a  
21 quarter to 3:00 --

22 **MR. HAUGABOOK:** Yes, sir.

23 **THE COURT:** -- or 2:30. I'm going to tell the jury  
24 that after they are fully instructed if they want to go home  
25 and start deliberating in the morning that's their privilege.

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1 If they want to start their deliberations this afternoon and if  
2 they haven't finished by 4:30, send me a note if they want to  
3 continue or they want to go home, but it's up to them.

4 **MR. HAUGABOOK:** Yes, sir.

5 **THE COURT:** Thank you.

6 **MR. HAUGABOOK:** Thank you.

7 (Recess from 1:06 p.m. until 1:53 p.m.)

8 **THE COURT:** Everybody be seated. Be seated.

9 Let me have one of the folders.

10 Ladies and gentlemen, I'm going to give you a folder. You  
11 will take it with you in the jury room, but take out of it the  
12 instructions so you don't have to take notes. You can follow  
13 me as I read them. But the folder also contains for each of  
14 you a copy of the indictment, witness lists and exhibit lists  
15 that you can use for reference purposes, okay?

16 Member of the jury, now it is time for me to instruct you  
17 about the law that you must follow in deciding this case.

18 I will start by explaining your duties and general rules  
19 that apply in every criminal case.

20 Then I will explain the elements, or parts, of the crimes  
21 that the defendants are accused of committing.

22 Then I will explain some rules that you must use in  
23 evaluating particular testimony and evidence.

24 And, lastly, I will explain the rules that you must follow  
25 during your deliberations in the jury room and possible

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1 verdicts you may return.

2 Please listen carefully to everything I say.

3 You have two main duties as jurors. The first one is to  
4 decide what the facts are from the evidence that you saw and  
5 heard here in the court. Deciding what the facts are is your  
6 job, not mine. Nothing that I have said or done during this  
7 trial was meant to influence your decisions about the facts in  
8 any way.

9 Your second duty is to take the law that I give you, apply  
10 it to the facts, and decide if the government has proved either  
11 defendant guilty beyond a reasonable doubt. It is my job to  
12 instruct you about the law, and you are bound by the oath you  
13 took at the beginning of the trial to follow the instructions  
14 that I give you even if you personally disagree with them.  
15 This includes the instructions I gave you before and during the  
16 trial and these instructions. All of the instructions are  
17 important, and you should consider them as a whole.

18 Now, the lawyers may have talked about the law during  
19 their argument. But, if what they said is different from what  
20 I say, you must follow what I say. What I say about the law  
21 controls.

22 Perform these duties fairly. Don't let any bias, sympathy  
23 or prejudice that you may feel towards one side or the other  
24 influence your decision in any way.

25 As you know, the defendants have pled not guilty to the



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1 crimes charged in the indictment. The indictment is not  
2 evidence at all of guilt. It is just the formal way the  
3 government tells a defendant what crimes the defendant is  
4 accused of committing. It does not even raise any suspicion of  
5 guilt.

6 Instead, each defendant starts the trial with a clean  
7 slate with no evidence at all against him. The law presumes  
8 that he is innocent. This presumption of innocence stays with  
9 him unless the government presents evidence here in the  
10 courtroom that overcomes the presumption and convinces you  
11 beyond a reasonable doubt that the defendant is guilty.

12 This means that a defendant has no obligation to present  
13 any evidence at all or prove to you in any way that he is  
14 innocent. It is up to the government to prove that he is  
15 guilty, and this burden stays on the government from start to  
16 finish. You must find a defendant not guilty unless the  
17 government convinces you beyond a reasonable doubt that he is  
18 guilty.

19 The government must prove every element of a crime charged  
20 beyond a reasonable doubt. Proof beyond a reasonable doubt  
21 does not mean proof beyond all possible doubt. Possible  
22 doubts, or doubts based purely on speculation, are not  
23 reasonable doubts. A reasonable doubt is based on reason and  
24 common sense. It may arise from the evidence, from the lack of  
25 evidence or the nature of the evidence.

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1 Proof beyond a reasonable doubt means proof of which is so  
2 convincing that you would not hesitate to rely and act on it in  
3 making the most important decisions in your own lives. If you  
4 are convinced that the government has proven a defendant guilty  
5 beyond a reasonable doubt, say so by returning a guilty  
6 verdict. If you are not convinced, say so by returning a not  
7 guilty verdict.

8 You must make your decision based solely on the evidence  
9 that you saw and heard here in court. Don't let rumors,  
10 suspicions or anything else that you may have seen or heard  
11 outside of court influence your decision in any way.

12 Now, the evidence in this case includes only what the  
13 witnesses said while they were testifying under oath, the  
14 exhibits I allowed in evidence and the stipulations that the  
15 lawyers agreed to.

16 Nothing else is evidence. The lawyers' statements and  
17 arguments are not evidence. Their questions and objections are  
18 not evidence. My legal rulings are not evidence, and my  
19 comments and questions are not evidence.

20 During the trial I may not have let you hear some answers  
21 to some of the questions the lawyers asked. I also ruled, I  
22 think, that some of the exhibits the lawyers wanted you to see  
23 you couldn't see. Sometimes I may have ordered you to  
24 disregard something you saw or heard. You must completely  
25 ignore all of these things. Don't even think about them.

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1 Don't speculate about what a witness might have said or what an  
2 exhibit might have shown. These things are not evidence, and  
3 you are bound by your oath not to let them influence your  
4 decision in any way.

5 Make your decision based only on the evidence as I have  
6 defined it and nothing else.

7 You should use your own common sense in weighing the  
8 evidence. Consider it in light of your everyday experience  
9 with people and events, and give it whatever weight you may  
10 believe it deserves. If your experience tells you that certain  
11 evidence reasonably leads to a conclusion, you are free to  
12 reach that conclusion.

13 Now, some of you may have heard the terms direct evidence  
14 and circumstantial evidence. Direct evidence is simply  
15 evidence like the testimony of an eyewitness which, if you  
16 believe it, directly proves a fact. If a witness testified  
17 that he saw it raining outside, and you believed him, that  
18 would be direct evidence that it was raining.

19 Circumstantial evidence is simply a chain of evidence that  
20 indirectly proves a fact. If someone walked into the courtroom  
21 wearing a rain coat covered with drops of water and carrying a  
22 wet umbrella, that would be circumstantial evidence from which  
23 you could conclude it was raining.

24 It is your job to decide how much weight to give the  
25 direct and circumstantial evidence. The law makes no

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1 distinction between the weight that you give to one or the  
2 other or that one is better evidence than the other. Consider  
3 all of the evidence, both direct and circumstantial, and give  
4 it whatever weight you believe it deserves.

5 Another part of your job as jurors is to decide how  
6 credible or believable each witness was. This is your job, not  
7 mine. It is up to you to decide if a witness's testimony was  
8 believable and how much weight you think it deserves. You are  
9 free to believe everything that a witness said, only part of it  
10 or none of it at all, but you should act reasonably and  
11 carefully in making these decisions.

12 Let me suggest some things for you to consider in  
13 evaluating each witness's testimony.

14 Ask yourself if the witness was able to clearly hear or  
15 see the events. Sometimes even an honest witness may not have  
16 been able to see or hear what was happening and may make a  
17 mistake.

18 Ask yourself how good the witness's memory seemed to be.  
19 Did the witness seem able to accurately remember what happened?

20 Ask yourself if there was anything else that may have  
21 interfered with the witness's ability to perceive or remember  
22 the events.

23 Also ask yourself how the witness acted while testifying.  
24 Did the witness appear to be honest? Or did the witness appear  
25 to be lying?

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1       Ask yourself if the witness had any relationship to the  
2 government or to the defendant, or anything else to gain or  
3 lose from the case that might influence the witness's  
4 testimony.

5       Ask yourself if the witness had any bias or prejudice or  
6 reason for testifying that might have caused the witness to lie  
7 or to slant the testimony in favor of one side or the other.

8       Ask yourself if the witness testified inconsistently while  
9 on the stand or if the witness said or did something or failed  
10 to say or do something at any other time that is inconsistent  
11 with what the witness said while testifying. If you believe  
12 that the witness was inconsistent, ask yourself if this makes  
13 the witness's testimony less believable. Sometimes it may.  
14 Other sometimes it may not. Consider whether the inconsistency  
15 was about something important or about some unimportant detail.  
16 Ask yourself if it seemed like an innocent mistake or if it  
17 seemed to be deliberate.

18       Ask yourself how believable the witness's testimony was in  
19 light of all of the other evidence. Was the witness's  
20 testimony supported or contradicted by other evidence that you  
21 found believable? If you believe that a witness's testimony  
22 was contradicted by other evidence, remember that people  
23 sometimes forget things and that even two honest people who  
24 witness the same event may not describe it exactly the same  
25 way.

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1       These are only some of the things you may consider in  
2 deciding how believable each witness was. You may also  
3 consider other things that you think shed some light on the  
4 witness's believability. Use your common sense and everyday  
5 experience in dealing with other people, and then decide what  
6 testimony you believe and how much weight you think it  
7 deserves.

8       One more point about witnesses. Sometimes people wonder  
9 if the number of witnesses who testified makes any difference.  
10 Do not make any decisions based only on the number of witnesses  
11 who testified. What is more important is how believable the  
12 witnesses were and how much weight you think their testimony  
13 deserves. Concentrate on that, not the numbers.

14       There is one more general subject I want to talk to you  
15 about before I begin explaining the elements of the crimes  
16 charged. The lawyers for both sides objected to some of the  
17 things that were said or done during the trial. Do not hold  
18 that against either side. The lawyers have a duty to object --  
19 a lawyer has a duty to object whenever the lawyer thinks that  
20 something is not permitted by the rules of evidence. These  
21 rules are designed to make sure that both sides receive a fair  
22 trial.

23       And do not interpret my rulings on their objections as any  
24 indication of how I think the case should be decided. My  
25 rulings were based on the rules of evidence, not how I feel

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1 about the case. Remember, your decision must be based only on  
2 the evidence you heard and saw in the courtroom.

3 Now, that concludes the part of your instructions  
4 explaining your duties and the general rules that apply in  
5 every criminal case. In a moment I will explain the elements  
6 of the crimes that each defendant is accused of committing.

7 Before I do that I want to emphasize that the defendants  
8 are only on trial for the particular crimes charged in the  
9 indictment. Your job is limited to deciding whether the  
10 government has proved the crimes charged.

11 And keep in mind that whether anyone else should be  
12 prosecuted and convicted for these crimes is not a proper  
13 matter for you to consider. The possible guilt of others is no  
14 defense to a criminal charge. Your job is to decide if the  
15 government has proved the defendant guilty. Do not let the  
16 possible guilt of others influence your decision in any way.

17 The defendants have each been charged with several crimes  
18 together, and one of the defendants has been charged separately  
19 with another crime. I will explain to you in more detail  
20 shortly which defendant has been charged with what crime, but  
21 before I do I want to emphasize several things.

22 The number of charges is no evidence of guilt and should  
23 not influence your decision in any way. And in our system of  
24 justice, guilt or innocence is personal and individual. It is  
25 your duty to separately consider the evidence against each

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1 defendant on each charge and to return a separate verdict for  
2 each one of them. For each one you must decide whether the  
3 government has presented proof beyond a reasonable doubt that a  
4 particular defendant is guilty of a particular charge.

5 Your decision on any one defendant or charge, whether it  
6 is guilty or not guilty, should not influence your decision on  
7 any of the other -- on the other defendant or charges.

8 Now I want to say a word about the date mentioned in the  
9 indictment. The indictment charges that the crimes happened on  
10 or about September 11, 2015 and September 24, 2015. The  
11 government does not have to prove that the crimes happened on  
12 these exact dates, but the government must prove that the  
13 crimes happened reasonably close to those dates.

14 Now I want to explain to you something about a defendant's  
15 state of mind. Ordinarily there is no way that a defendant's  
16 state of mind can be proved directly because no one can read  
17 another person's mind and tell what that person is thinking.

18 But a defendant's state of mind can be proved indirectly  
19 from the surrounding circumstances. This includes things like  
20 what a defendant said, what a defendant did, how a defendant  
21 acted and other facts or circumstances in evidence which show  
22 what was in a defendant's mind.

23 You may also consider the natural and probable results of  
24 any acts that a defendant knowingly did or did not do and  
25 whether it is reasonable to conclude that a defendant intended



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1 those results. This, of course, is all for you to decide.

2 Let me now discuss the specific charges. I will do this  
3 by describing the various counts and what the government must  
4 prove to establish their guilt.

5 Although the words of the indictment charge that the law  
6 was violated by acts that are connected by the word "and," it  
7 is sufficient if the evidence establishes a violation of the  
8 law by any one of the acts charged. Of course, this must be  
9 proved beyond a reasonable doubt.

10 Count One of the indictment charges the defendants with  
11 the use of certain interstate facilities in the commission of a  
12 murder-for-hire. For you to find a defendant guilty of this  
13 crime, you must be convinced that the government has proven  
14 each of the following elements beyond a reasonable doubt:

15 First, that the defendant used or caused another person to  
16 use any facility of interstate or foreign commerce;

17 Second, that the defendant did so with the intent that a  
18 murder be committed in violation of the law;

19 Third, as consideration for the receipt of, or a promise  
20 of, or agreement to pay anything of pecuniary value;

21 Fourth, that death resulted.

22 Murder, as defined by the law, has the following  
23 four elements:

24 First, that the defendant caused the death of another  
25 person, that is, the other person died as a result of the act

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1 or acts committed by the defendant.

2 Second, that the defendant intended to kill the deceased.

3 Third, that this intent to kill was premeditated, that is,  
4 thought out beforehand.

5 Fourth, that the killing was deliberate, which means that  
6 the defendant considered the pros and cons of the killing and  
7 thought about it and chose his actions before he did. There  
8 must have been real and substantial reflection for long enough  
9 to give a reasonable person a chance to think about the intent  
10 to kill. The law does not say how much time is needed, but the  
11 killing cannot be the result of a sudden impulse without  
12 thought or reflection. It is for you to decide if enough time  
13 passed under the circumstances of the case.

14 "Anything of pecuniary value" means anything of value in  
15 the form of money, a negotiable instrument, a commercial  
16 interest or anything else that the primary significance of  
17 which is economic advantage.

18 A "facility of interstate commerce" includes a means of  
19 transportation and communication. This includes the use of a  
20 cellular telephone, a cellular network and the internet.

21 However, while the defendant must use a facility of  
22 interstate commerce, the use itself may be either intrastate or  
23 interstate. In other words, you need not find that someone  
24 traveled out of state or made a telephone call to a person in  
25 another state. All that is required is that a defendant used

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1 or caused another to use such a facility of interstate  
2 commerce.

3 The government must prove a quid pro quo between the  
4 person who solicits the murder and the person who would commit  
5 the murder. In other words, it requires a mutual understanding  
6 that something of value will be exchanged for committing a  
7 murder, and you may find a defendant guilty regardless of  
8 whether the payment occurred or was to occur in the future.

9 If you are convinced that the government has proved all of  
10 these elements for this charge, say so by returning a guilty  
11 verdict on this charge. If you have a reasonable doubt about  
12 any one of these elements, you must find the defendant not  
13 guilty of this charge.

14 Count Two of the indictment charges the defendants with  
15 conspiracy to distribute a controlled substance, specifically  
16 cocaine and oxycodone. It is a crime for two or more persons  
17 to conspire or agree to commit a drug crime even if they never  
18 actually achieve their goal.

19 A conspiracy is a kind of criminal partnership. For you  
20 to find a defendant guilty of the conspiracy charge, the  
21 government must prove each and every one of the following  
22 elements beyond a reasonable doubt:

23 First, that two or more persons conspired or agreed to  
24 distribute a mixture or substance containing cocaine, oxycodone  
25 or both;

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1           Second, that the defendant knowingly and voluntarily  
2 joined the conspiracy.

3           Now I will give you a more detailed description of some of  
4 these terms.

5           The term "distribute" means to deliver or transfer a  
6 controlled substance. The term distribute includes the actual  
7 constructive or attempted transfer of a controlled substance.  
8 The term to distribute also includes the sale of a controlled  
9 substance.

10           With regard to the criminal agreement, the government must  
11 prove that two or more persons conspired or agreed to cooperate  
12 with each other to distribute a mixture or substance containing  
13 cocaine, oxycodone or both.

14           This does not require proof of any formal agreement,  
15 written or spoken. Neither does this require proof that  
16 everyone involved agreed to all the details. But proof that  
17 people simply met together from time to time and talked about  
18 common interests or engaged in similar conduct is not enough to  
19 establish a criminal agreement. These are things that you may  
20 consider in deciding whether the government has proven an  
21 agreement, but without more they are not enough.

22           What the government must prove is that there was a mutual  
23 understanding, either spoken or unspoken, between two or more  
24 people to cooperate with each other to distribute a controlled  
25 substance. This is essential.

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1       An agreement can be proved indirectly by facts and  
2 circumstances which lead to a conclusion that an agreement  
3 existed, but it is up to the government to convince you that  
4 such facts and circumstances existed in this particular case.

5       One more point about the agreement. The indictment  
6 accuses the defendants of conspiring to commit several drug  
7 crimes, specifically to distribute both cocaine and oxycodone.  
8 The government does not have to prove that defendant agreed to  
9 commit both of these crimes. The government must prove an  
10 agreement to commit at least one of them for you to return a  
11 guilty verdict on the conspiracy charge.

12       With regard to the second element, the defendants'  
13 connection to the conspiracy, the government must prove that a  
14 defendant knowingly and voluntarily joined the agreement.

15       The government must prove that the defendant knew the  
16 conspiracy's main purpose and voluntarily joined the conspiracy  
17 intending to help advance or achieve its goals. You must  
18 consider each defendant separately in this regard.

19       This does not require proof that a defendant knew  
20 everything about the conspiracy or everyone involved or that he  
21 was a member from the very beginning, nor does it require proof  
22 that a defendant played a major role in the conspiracy or that  
23 his connection to it was substantial. A slight role or  
24 connection may be enough.

25       Further, this does not require proof that the defendant

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1 knew the drug involved was cocaine or oxycodone. It is enough  
2 that the defendant knew that it was some kind of controlled  
3 substance. Nor does the government have to prove that the  
4 defendant knew how much cocaine or oxycodone was involved. It  
5 is enough that the defendant knew that some quantity was  
6 involved.

7 But proof that a defendant simply knew about a conspiracy  
8 or was present at times or associated with members of the group  
9 is not enough, even if he approved of what was happening or did  
10 not object to it. Similarly, just because a defendant may have  
11 done something that happened to help a conspiracy does not  
12 necessarily make him a conspirator. These are all things that  
13 you may consider in deciding whether the government has proved  
14 that a defendant joined a conspiracy, but without more they are  
15 not enough.

16 A defendant's knowledge can be proved indirectly by facts  
17 and circumstances which lead to a conclusion that he knew the  
18 conspiracy's main purpose. But it is up to the government to  
19 convince you that such facts and circumstances existed in this  
20 particular case.

21 You must be convinced that the government has proved all  
22 of these elements beyond a reasonable doubt in order to find  
23 any one of the defendants guilty of the conspiracy charge.

24 Count Three of the indictment charges the defendants with  
25 causing death through the use of a firearm during and in

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1 relation to a drug-trafficking crime. For you to find the  
2 defendant guilty of this crime, you must find that the  
3 government has proved each and every one of the following  
4 elements beyond a reasonable doubt:

5 First, that the defendant committed the drug-trafficking  
6 crime charged in Count 2. Conspiracy to distribute a  
7 controlled substance is a drug-trafficking crime which may be  
8 prosecuted in a Court of the United States;

9 Second, defendant knowingly used a firearm;

10 Third, that the use of the firearm was during or in  
11 relation to the drug trafficking conspiracy;

12 Fourth, in the course of doing so the defendant caused the  
13 death of another person through the use of a firearm;

14 Fifth, the death was an unlawful killing of a human being  
15 with malice aforethought.

16 I will give you some more detailed instructions on some of  
17 these terms now.

18 To establish the use of a firearm, the government must  
19 prove active employment of a firearm during and in relation to  
20 the crime charged in Count Two. Active employment means  
21 activities such as brandishing, displaying, bartering, striking  
22 and, most obviously, firing or attempting to fire a firearm.

23 The term "firearm" means any weapon which will or is  
24 designed to or may readily be converted to expel a projectile  
25 by the action of an explosive.

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1       The phrase "during and in relation to" means that the  
2 firearm must have some purpose or effect with respect to the  
3 crime charged in Count Two. In other words, the firearm must  
4 facilitate or further or have the potential of facilitating or  
5 furthering the crime charged in Count Two, and its presence or  
6 involvement cannot be the result of an accident or coincidence.

7       The term "knowingly" means voluntarily and intentionally  
8 and not because of mistake or accident.

9       The phrase "with malice aforethought" means deliberately  
10 and intentionally.

11       If you are convinced that the government has proved all of  
12 these elements for this charge, say so by returning a guilty  
13 verdict on this charge. If you have reasonable doubt about any  
14 of these elements, then you must find the defendant not guilty  
15 of this charge.

16       With respect to Count Three, which charges the defendants  
17 with using a firearm during and in relation to a  
18 drug-trafficking offense and causing death through the use of a  
19 firearm in the course of the offense, there are three different  
20 ways in which a defendant can be held responsible. The first  
21 is if you find that the defendant committed the act charged  
22 with the necessary mental state, as I have instructed you.

23       Under the law it is not necessary for you to find that a  
24 defendant personally committed the crime for you to find him  
25 guilty of the offense. You may also find him guilty if he



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1 intentionally helped or encouraged someone else to commit the  
2 crime. A person who does this is an aider and abettor. This  
3 is the second way in which a defendant can be held responsible.

4 But for you to find the defendant guilty of using a  
5 firearm to cause death during and in relationship to a  
6 drug-trafficking offense as an aider and abettor, you must be  
7 convinced that the government has proved each and every one of  
8 the following elements beyond a reasonable doubt:

9 First, that the crime of using a firearm during and in  
10 relation to a drug-trafficking crime was committed;

11 Second, the defendant helped to commit or encouraged  
12 someone else to commit the crime of using a firearm during and  
13 in relation to a drug trafficking crime;

14 Third, that the defendant intended to help commit or  
15 encourage the crime of using a firearm during and in relation  
16 to a drug-trafficking crime. The defendant intended to aid or  
17 abet the crime of using a firearm during and in relation to a  
18 drug-trafficking crime if he had advance knowledge that an  
19 accomplice would use a firearm during the commission of a  
20 drug-trafficking crime.

21 "Advance knowledge" means knowledge at a time the  
22 defendant can attempt to alter the plan or withdraw from the  
23 enterprise. Knowledge of the firearm may but does not have to  
24 exist before the underlying crime is begun.

25 Fourth, that the defendant knew or expected that the

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1 firearm would be used during and in relation to the  
2 drug-trafficking crime to cause the death of another person;

3 Fifth, that the death was an unlawful killing of a human  
4 being with malice aforethought.

5 If you are convinced that the government has proved all of  
6 these elements, say so by returning a guilty verdict on this  
7 charge. If you have a reasonable doubt about any of these  
8 elements, then you cannot find the defendant guilty of using a  
9 firearm during and in relation to a drug-trafficking crime as  
10 an aider and abettor.

11 The law also provides a third way in which the defendant  
12 can be held responsible for the offense. Under this rule all  
13 members of a conspiracy are responsible for acts committed by  
14 the other members as long as those acts are committed to help  
15 advance the conspiracy and are within the reasonably  
16 foreseeable scope of the agreement.

17 In other words, under certain circumstances the acts of  
18 one conspirator may be treated as the act of all. This means  
19 that all the conspirators may be convicted of a crime committed  
20 by only one of them even though they did not all personally  
21 participate in the crime themselves.

22 For you to find any of the defendants guilty of Count  
23 Three based on this legal rule, you must be convinced that the  
24 government has proved each and every one of the following  
25 elements beyond a reasonable doubt:

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1 First, there was a conspiracy or agreement to use a  
2 firearm during and in relation to the drug-trafficking  
3 conspiracy charged in Count Two of the indictment and to use  
4 the firearm or commit a murder as part of the agreement;

5 Second, that the defendant joined this conspiracy or  
6 agreement, and after he joined conspiracy and while he was  
7 still a member of it one or more of the other members committed  
8 the crime of using a firearm to cause the death of  
9 Devin Wallace during and in relation to a drug-trafficking  
10 crime;

11 Third, that this crime was committed to help advance the  
12 conspiracy;

13 Fourth, the death of Devin Wallace was an unlawful killing  
14 of a human being with malice aforethought;

15 Fifth, that the use of the firearm to commit the murder  
16 was within the reasonably foreseeable scope of the unlawful  
17 project. The crime must have been one that the defendant could  
18 have reasonably anticipated as a necessary or natural  
19 consequence of the agreement.

20 This does not require proof that each defendant  
21 specifically agreed or knew that the crime would be committed,  
22 but the government must prove the crime was within the  
23 reasonable contemplation of the persons who participated in the  
24 conspiracy. No defendant is responsible for the acts of others  
25 that go beyond the fair scope of the agreement as the defendant

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1 understood it.

2 If you are convinced that the government has proved all of  
3 these elements, say so by returning a guilty verdict on this  
4 charge. If you have at reasonable doubt about any one of them,  
5 then the legal rule that the act of one conspirator is the act  
6 of others would not apply.

7 Count Four of the indictment charges Deaunta Belcher with  
8 obstruction of justice. For you to find him guilty of this  
9 crime, you must find that the government has proven each and  
10 every one of the following elements beyond a reasonable doubt:

11 First, that the defendant knowingly engaged in misleading  
12 conduct towards another person;

13 Second, that defendant acted with intent to hinder, delay  
14 or prevent the communication of information to a law  
15 enforcement officer of the United States or judge of the  
16 United States;

17 Third, that there was a reasonable likelihood that at  
18 least one of the relevant communications would have been  
19 transferred to a federal law enforcement officer;

20 Fourth, such information related to the commission or  
21 possible commission of a federal offense.

22 Now, as to a more detailed instructions, the term  
23 misleading conduct means knowingly making a false statement,  
24 intentionally omitting material information from the statement,  
25 and thereby causing a portion of such statement to be

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1 misleading or intentionally concealing a material fact and  
2 thereby creating a false impression by such statement.

3       The defendant need not have directly communicated with and  
4 the misleading conduct need not have been directed to a federal  
5 officer, nor does the defendant need to have specifically  
6 intended to mislead federal officials. In other words, the  
7 specific intent to mislead a federal official is not required.  
8 The information need not be material. Instead, it need only  
9 relate to the possible commission of a federal offense.

10       If you are convinced that the government has proven all of  
11 these elements for this charge, say so by returning a guilty  
12 verdict on this charge. If you have reasonable doubt about any  
13 one of these elements, then you must find the defendant not  
14 guilty of the charge.

15       Now some people who may have been involved in these events  
16 are not on trial. This does not matter. There is no  
17 requirement that all members of a conspiracy be charged and  
18 prosecuted or tried together in one proceeding.

19       Nor is there any requirement that the names of all of the  
20 other conspirators be known. An indictment can charge a  
21 defendant with a conspiracy involving people whose names are  
22 not known as long as the government can prove that the  
23 defendant conspired with one or more. Whether they are named  
24 or not does not matter.

25       This now concludes my instructions explaining the elements

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1 of the crimes. Next I will explain some rules you use in  
2 considering some of the testimony and the evidence.

3 A defendant has an absolute right not to testify or  
4 present evidence. The fact that a defendant did not testify  
5 cannot be considered by you in any way. Do not even discuss it  
6 in your deliberations.

7 Remember, it is up to the government to prove each  
8 defendant guilty beyond a reasonable doubt. It is not up to  
9 the defendant to prove that he is innocent.

10 You have heard the evidence of Dr. David Moons and Special  
11 Agent Joseph Jensen, who testified as opinion witnesses. You  
12 do not have to accept their opinions. In dealing with how much  
13 weight to give it, you should consider the witness's  
14 qualifications and how he reached his conclusion. Also  
15 consider the other factors discussed in these instructions for  
16 weighing the credibility of the witness.

17 Remember that you alone decide how much of a witness's  
18 testimony to believe and how much weight it deserves.

19 You have heard the testimony of Deandre Paymond,  
20 Billie Chambers, Darnell Bailey, Stephen Brown and  
21 Latasia Banks. You have also heard that before this trial the  
22 witness made a statement that may be different from their  
23 testimony here in court.

24 The earlier statement was brought to your attention only  
25 to help you describe how believable a witness's testimony was.

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1 You cannot use it as proof of anything else. You can only use  
2 it as one of the ways of evaluating testimony here in open  
3 court.

4 You have heard the testimony of Deandre Paymond,  
5 Billie Chambers, Darnell Bailey and Stephen Brown. You have  
6 also heard before trial the witnesses were convicted of one or  
7 more crimes.

8 The earlier conviction was brought to your attention only  
9 as one way of helping you decide how believable the witness's  
10 testimony was. Do not use it for any other purpose. It is not  
11 evidence of any kind.

12 You have heard the testimony of Billie Chambers,  
13 Stephen Brown, Darnell Bailey, Franklin Aday, Sean Jackson and  
14 Latasia Banks. You have also heard that the government has  
15 promised these witnesses that it will recommend a reduced  
16 sentence and/or not be prosecuted for certain other crimes in  
17 exchange for their cooperation.

18 It is permissible for the government to make such a  
19 promise, but you should consider these witnesses' testimony  
20 with more caution than the testimony of other witnesses.  
21 Consider whether the testimony may have been influenced by the  
22 government's promise. Do not convict a defendant based on the  
23 unsupported testimony of such a witness standing alone unless  
24 you believe their testimony beyond a reasonable doubt.

25 The Court admitted into evidence the plea agreements and

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1 cooperation agreements for Billie Joe Chambers, Darnell Bailey,  
2 Stephen Brown and Latasia Banks. These agreements are not  
3 substantive evidence of the offenses charged in this case.  
4 They were admitted only to show that these persons received a  
5 benefit for their testimony, which requires you to treat their  
6 testimony with the same caution described in the previous  
7 instruction.

8 During the trial you have heard or seen summary evidence  
9 in the form of a chart, spreadsheet or similar material. This  
10 summary was admitted in evidence in addition to the material it  
11 summarizes because it may assist you in understanding the  
12 evidence that has been presented. But the summary itself is  
13 not evidence of the material it's summarizing, only as valid as  
14 reliable as the underlying material it summarizes.

15 You have heard testimony that after the crime was supposed  
16 to have been committed Deaunta Belcher suggested the murder of  
17 Devin Wallace resulted from his "snitching." If you believe  
18 that the defendant made this statement, then you may consider  
19 this conduct along with all of the other evidence in deciding  
20 whether the government has proved beyond a reasonable doubt  
21 that Deaunta Belcher committed the crimes charged. This  
22 statement may indicate that he thought he was guilty and was  
23 trying to avoid punishment. On the other hand, it may have  
24 been true. The defendant has no obligation to prove that he  
25 had an innocent reason for his conduct.



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1       You have heard some recordings that were received in  
2 evidence and you were given some written transcripts of the  
3 tapes.

4       Keep in mind that the transcripts are not evidence. They  
5 were given to you only as a guide to help you follow what was  
6 being said. The tapes themselves are the evidence. If you  
7 noticed any difference between what you heard on the tapes and  
8 what you read in the transcripts, you must rely on what you  
9 heard, not what you read. And if you could not hear or  
10 understand certain parts of the tapes, you must ignore the  
11 transcripts as far as those tapes are concerned.

12       You have heard evidence that a defendant made a statement  
13 in which the government claims that he admitted certain facts,  
14 including that he sells illegal drugs. It is for you to decide  
15 whether defendant made the statement and, if so, how much  
16 weight it deserves. In making these decisions, you should  
17 consider all of the evidence about the statement, including the  
18 circumstances under which the defendant allegedly made it.

19       You may not convict a defendant solely on his own  
20 uncorroborated statement or admission.

21       Now, that concludes the part of the instructions  
22 explaining the rules for considering some of the testimony and  
23 evidence. Let me finish up by explaining some things about  
24 your deliberations in the jury room and your possible verdicts.

25       The first thing you should do when you get to the jury

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1 room is choose someone to be your foreperson. This person will  
2 help guide your discussions and speak for you here in the open  
3 courtroom.

4 Once you start deliberating, don't talk to the jury  
5 officer or me or anyone else except each other about the case.  
6 If you have any questions or messages, you must write them down  
7 on a peace of paper, sign them, and then give it to the jury  
8 officer. The officer will give it to me, and I will respond as  
9 soon as I can. I may have to talk to the lawyers about what  
10 you asked so it may take some time to get back to you. Any  
11 questions or messages normally should be sent to me through  
12 your foreperson.

13 If you want to see any of the exhibits that were admitted  
14 in evidence, you may send me a message and these exhibits will  
15 be provided to you.

16 One more thing about messages. Don't ever write down or  
17 tell anyone, including me, how you stand on your votes. For  
18 example, don't write down or tell anyone that you are split 6-6  
19 or 8-4 or whatever your vote happens to be. That should stay a  
20 secret until you are finished.

21 Remember, that you must make your decision based only on  
22 the evidence that you saw and heard here that the courtroom.

23 During your deliberations you must not communicate with or  
24 provide any information to anyone else by any means about the  
25 case. You may not use any electronic device or media, such as

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1 telephone, cell phone, smart phone, iPhone, Blackberry or  
2 computer, the internet or any internet service or any text or  
3 instant messaging service, any internet chat room, blog or  
4 website, such as Facebook, MySpace LinkedIn, YouTube or  
5 Twitter, to communicate with anyone any information about the  
6 case or to conduct any research about the case until I accept  
7 your verdict. In other words, you can't talk to anyone on the  
8 phone, nor correspond with anyone or electronically communicate  
9 with anyone about the case. You can only discuss the case in  
10 the jury room with your fellow jurors during deliberations. I  
11 expect you will inform me as soon as you become aware of  
12 another person's violation of these instructions.

13       You may not use these electronic means to investigate or  
14 communicate about the case because it is important to decide  
15 this case solely on the evidence presented in the courtroom.  
16 Information on the internet or information through social media  
17 may be wrong, incomplete or inaccurate. You are only permitted  
18 to discuss this case with your fellow jurors during  
19 deliberations because they have seen and heard the same  
20 evidence you have. In our judicial system it is important that  
21 you are not influenced by anything or anyone outside of the  
22 courtroom. Otherwise, your decision may be based upon  
23 information known only to you and not your fellow jurors or the  
24 parties. This would unfairly and adversely impact the judicial  
25 process.

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1 A juror who violates these restrictions jeopardizes the  
2 fairness of these proceedings and a mistrial could result,  
3 which would require the entire trial process to start over.

4 Your verdict, whether guilty or not guilty, must be  
5 unanimous as to each count.

6 To find a defendant guilty of a particular count, every  
7 one of you must agree that the government has overcome the  
8 presumption of innocence with evidence that proves guilt beyond  
9 a reasonable doubt.

10 To find a defendant not guilty of a particular count,  
11 every one of you must agree that the government has failed to  
12 convince you beyond a reasonable doubt.

13 Either way, guilty or not guilty, your verdict must be  
14 unanimous as to each count.

15 Now that the evidence and the arguments are completed, you  
16 are free to talk about the case in the jury room. In fact, it  
17 is your duty to talk with each other about the evidence and to  
18 make every reasonable effort you can to reach unanimous  
19 agreement. Talk with each other, listen carefully and  
20 respectfully to each other's views, and keep an open mind as  
21 you listen to what your fellow jurors have to say. Try your  
22 best to work out your differences. Don't hesitate to change  
23 your mind if you are convinced that other jurors are right and  
24 that your original position was wrong.

25 But do not ever change your mind just because another

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1 juror sees things differently just to get the case over with.  
2 In the end, your vote must be exactly that, your own vote. It  
3 is important for you to reach unanimous agreement but only if  
4 you can do so honestly and in good conscience.

5 No one will be allowed to hear your discussions in the  
6 jury room and no record will be made of what you say. So you  
7 should feel free to speak your mind.

8 Listen carefully to what your fellow jurors have to say  
9 and then decide for yourself if the government has proven a  
10 defendant guilty beyond a reasonable doubt.

11 If you decide the government has proven a defendant  
12 guilty, then it will be my job to decide what the appropriate  
13 punishment should be. Deciding what the punishment should be  
14 is my job, not yours. It would violate your oath as a juror if  
15 you consider the possible punishment in deciding your verdict.  
16 Your job is to look at the evidence and decide whether the  
17 government has proven a defendant guilty beyond a reasonable  
18 doubt.

19 I have prepared a verdict form for you. You should use it  
20 to record your verdict. I'm not going to read the verdict form  
21 over to you. It's in your folder.

22 If you decide the government has proven the charges  
23 against a defendant beyond a reasonable doubt, say so by your  
24 foreperson marking the appropriate place in the form. If you  
25 decide the government has not proved a charge beyond a

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1 reasonable doubt, say so by having your foreperson mark the  
2 appropriate place on the form. Your foreperson should then  
3 sign the form, date it and return it to me.

4 Remember, a defendant is only on trial for the particular  
5 crimes charged in the defendant. Your job is to decide whether  
6 the government has proved a crime charged.

7 Also remember whether anyone else should be prosecuted for  
8 these crimes is not a proper matter for you to consider. The  
9 possible guilt of others is no defense in a criminal charge.  
10 As I have told you, your job is to decide whether the  
11 government has proved a defendant guilty. Don't let the  
12 possible guilt of others influence your decision in any way.

13 Let me finish up by repeating something I said to you  
14 earlier. Nothing that I have said or done during this trial  
15 was meant to influence your decision in any way. You decide  
16 for yourself if the government has proved a defendant guilty  
17 beyond a reasonable doubt.

18 That, ladies and gentlemen, are your instructions. Now it  
19 will be necessary for me to withdraw one of you as the  
20 alternate.

21 **THE COURT:** Juror Number 12. Let's do it from this  
22 end. Jonathan Swoveland, thank you, you are the alternate. Do  
23 you have anything in the jury room?

24 **A JUROR:** Yes.

25 **THE COURT:** If you have something in the jury room,

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1 go and get it and come back out, and then I have some special  
2 instructions for you.

3 Okay. Now, where is -- wait a minute, wait a minute.

4 **MR. SHEA:** Your Honor, instruction 41 was not read.

5 **THE COURT:** What?

6 **MR. SHEA:** Instruction 41 was not read, the very last  
7 one.

8 **THE COURT:** Okay. Did I miss this? Okay. I  
9 apologize, I didn't realize there was another one. Wait a  
10 second.

11 Remember, if you elected to take notes during the trial,  
12 your notes should be used as a memory aid. You should not give  
13 your notes greater weight than your independent recollection of  
14 the evidence. You should rely on your own independent  
15 recollection of the evidence or lack of the evidence. You  
16 should not be unduly influenced by the notes of the other  
17 jurors.

18 Notes are not entitled to any more weight than the memory  
19 of each juror. Whether you took notes or not, each of you must  
20 form or express your own opinion as to the facts of the case.  
21 In other words, don't get into an argument about your notes.

22 Okay. Now, I'm going to give you a green folder. You  
23 will take it to the jury room. It also has forms called  
24 Messages From the Jury in case you want to give me a message.

25 Give me a verdict form.

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1           Okay. Now, the green folder performs another function.  
2 If you recess tonight, as I'm about to explain to you, you give  
3 the jury officer a copy of the folder. That means in the  
4 morning as you assemble you don't talk about the case. You  
5 only talk about the case when the folder is in the room. If  
6 one of you per chance should leave the room for a moment,  
7 you've got to give the jury person the folder. This is a  
8 signal that you only deliberate when all 12 of you are in the  
9 room. Thank you.

10           Now let me give you your oath.

11           Raise your right hand.

12           (The bailiff was sworn.)

13           **THE COURT:** Okay. It's now a quarter to 3:00. When  
14 you go to the jury room, the first thing you should do is elect  
15 a foreperson.

16           The second thing you should do is decide whether or not  
17 you want to go home now and start your deliberations in the  
18 morning or you want to start deliberating now and if you  
19 haven't reached agreement by 5 o'clock then I'm going to excuse  
20 you until the morning. It's up to you. But, in any event, if  
21 you don't reach agreement today, you come back and assemble in  
22 the jury room and Marie will then take you down, we're going to  
23 use a different jury room than this courtroom, okay?

24           Thank you. You are all excused.

25           No, the alternate, you don't go back. You come up here.



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1 (Jury out at 2:48 p.m.)

2 **THE COURT:** I'm going to excuse you, but you are not  
3 discharged as a juror. Before they end their deliberations  
4 it's possible that I may have to excuse one for some reason,  
5 then I have to get ahold of you and bring you back and then you  
6 become a juror. That means you don't talk about the case to  
7 anyone, don't let anyone talk to you about it, but you don't  
8 have to sit by your telephone. I have to find you, okay? And  
9 we'll let you know when the jury is done and you are free. And  
10 I would appreciate you going out that door not through the jury  
11 room. Take your material. And I thank you for your service,  
12 sir.

13 (Juror out at 02:49 p.m.)

14 **THE COURT:** Okay. We're now in recess. You can take  
15 the defendants downstairs, but you can't leave the building  
16 with them until we tell you that we have excused the jury,  
17 okay?

18 And then you have to bring them into the building at  
19 9 o'clock tomorrow morning but not upstairs.

20 We will be using a different jury room tomorrow. It's  
21 around the hall down there, but I think -- I don't know what  
22 courtroom we will be using. Marie will let you know. We have  
23 been dispossessed of this courtroom because Judge Cox wants it  
24 back. He has patiently waited while we occupied it.

25 Thank you.

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(Proceedings adjourned at 2:50 p.m.)

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**C E R T I F I C A T I O N**

I certify that the foregoing is a correct transcription of  
the record of proceedings in the above-entitled matter.

s/ Sheri K. Ward  
Sheri K. Ward  
Official Court Reporter

3/13/2020  
Date

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